

United States
Circuit Court of Appeals
For the Ninth Circuit.

SAM YICK and JUNG KIM *Alias* JUNG CHUNG,
Plaintiffs in Error,
vs.

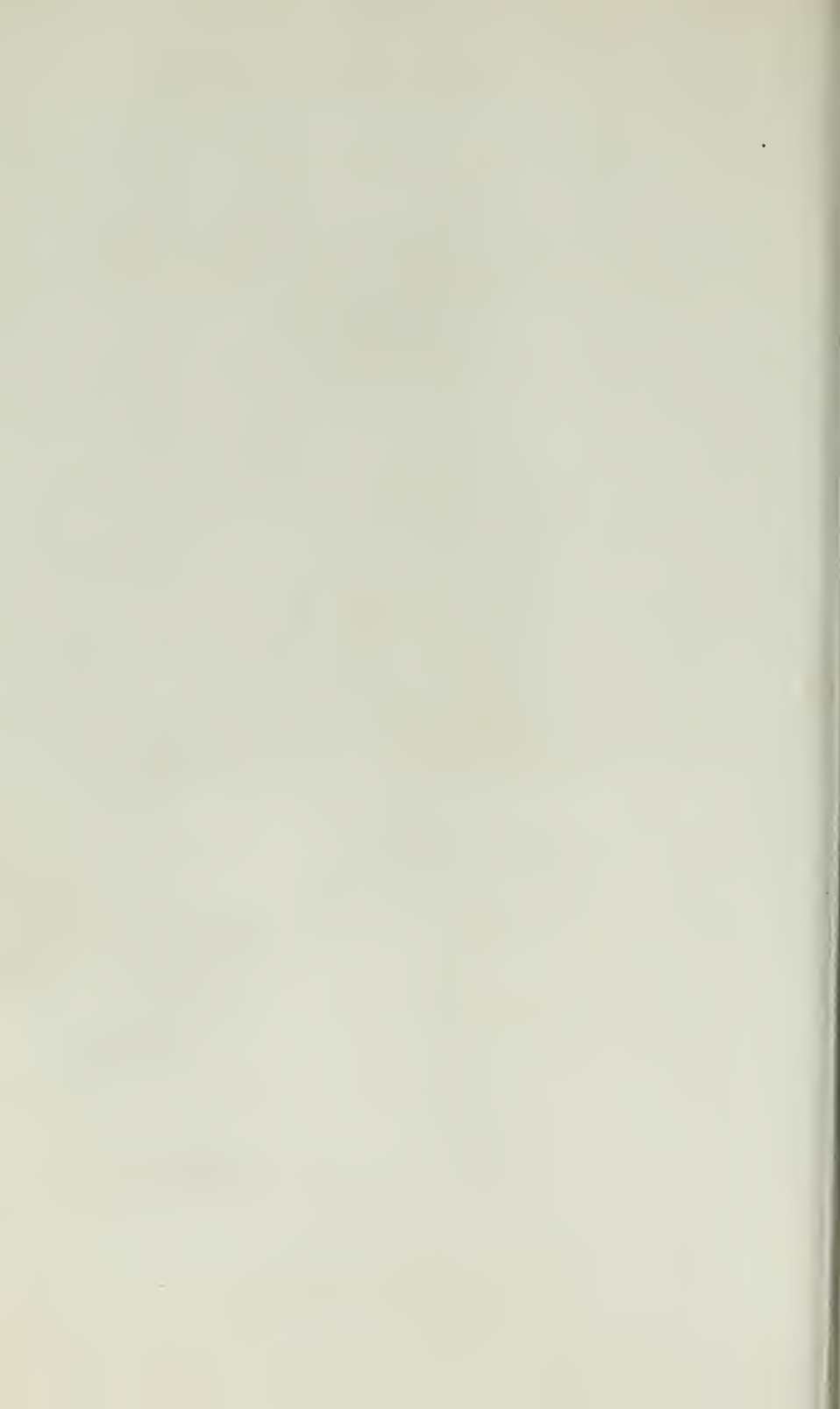
UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court
of the Southern District of California,
Southern Division.

Filed

JAN 18 1915



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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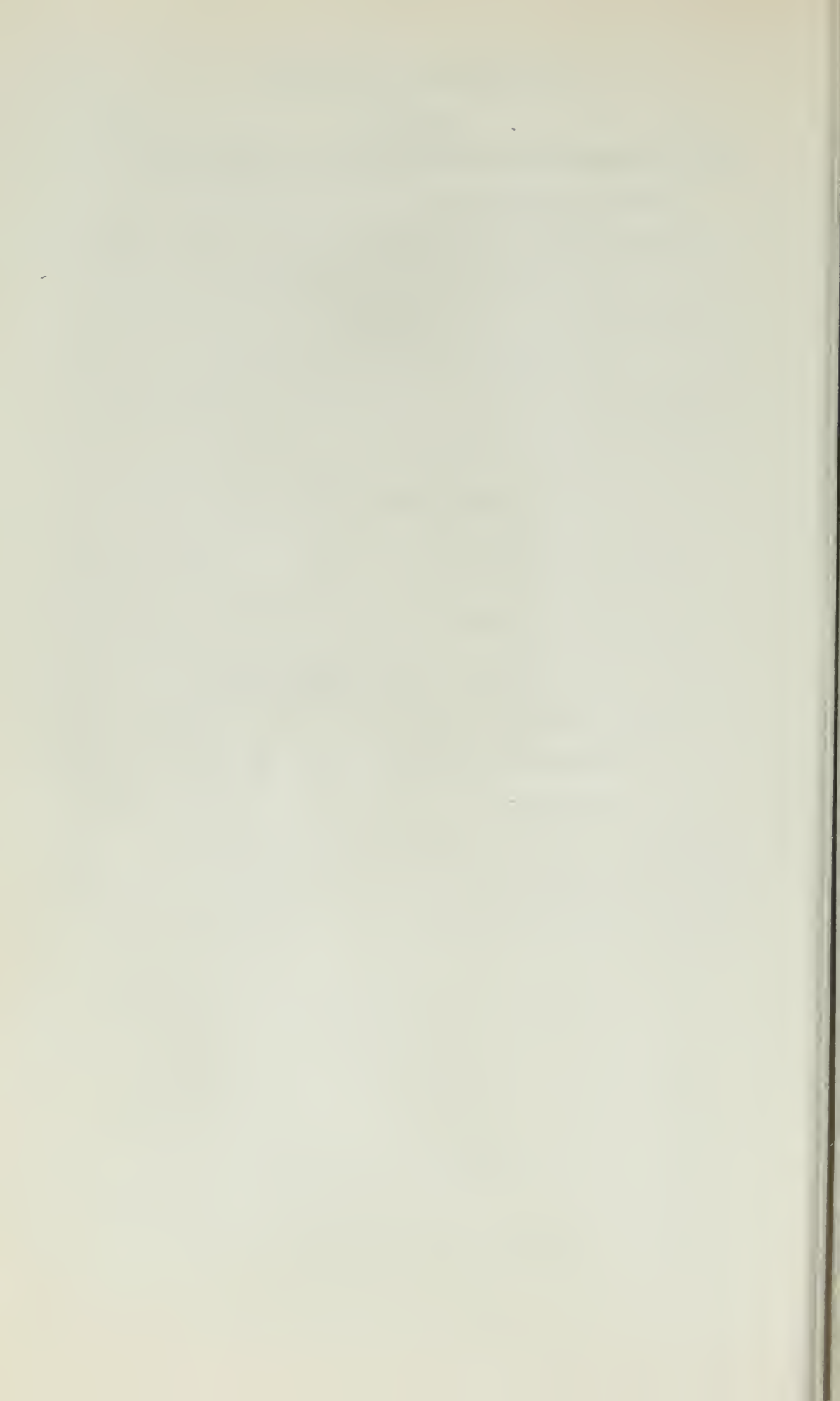
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Names and Addresses of Attorneys.

For Plaintiffs in Error:

Messrs. MOTT & DILLON, 426 Douglas Building, Los Angeles, California; and
ISADORE B. DOCKWEILER, Esq., 536 Douglas Building, Los Angeles, California.

For Defendants in Error:

ALBERT SCHOONOVER, Esq., U. S. Attorney, Los Angeles, California;
DUKE STONE, Esq., Assistant U. S. Attorney, Los Angeles, California; and
ROBERT O'CONNOR, Esq., Assistant U. S. Attorney, Los Angeles. [5*]

Writ of Error [Original].

UNITED STATES OF AMERICA,—ss.

The President of the United States of America, to the Honorable the Judges of the United States District Court, in and for the Southern District of California, Southern Division: Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, or some of you, between the United States of America, as plaintiff, and Sam Yick and Jung Kim, *alias* Jung Chung, as defendants, a manifest error hath happened, to the great damage of the said defendants, and each of them, as by their complaint appears. We, being willing that error, if any hath been, should be duly

*Page-number appearing at foot of page of original certified Record.

corrected, and full and speedy justice done to the parties aforesaid in this behalf, do hereby command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at San Francisco, in the State of California, on the 5th day of June, 1914, next in the said United States Circuit Court of Appeals, to be there and then held, that the record and proceedings aforesaid being inspected, the said United States Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the United States, this 8th day of May, in the year of our Lord [6] One Thousand Nine Hundred and Fourteen, and of the Independence of the United States the One Hundred and Thirty-eighth.

[Seal]

WM. M. VAN DYKE,

Clerk of the United States District Court, in and for the Southern District of California, Southern Division.

By Chas. N. Williams,
Deputy Clerk.

The above writ of error is hereby allowed.

OLIN WELLBORN,
District Judge.

I hereby certify that a copy of the within writ of error was on the 8th day of May, 1914, lodged in the Clerk's office of the said United States District Court for the Southern District of California, Southern Division, for the said defendants in error.

WM. M. VAN DYKE,

Clerk of the United States District Court, Southern District of California, Southern Division.

By Chas. N. Williams,

Deputy Clerk. [7]

[Endorsed]: No. 575—Criminal. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, plaintiff, vs. Sam Yick and Jung Kim, *alias* Jung Chung, defendants. Writ of Error. Filed May 8, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk.

Service of the within Writ of Error is hereby admitted this 8th day of May, 1914.

ALBERT SCHOONOVER,

United States District Attorney. [8]

Citation [on Writ of Error (Original)].

UNITED STATES OF AMERICA,—ss.

To the United States of America, and to the United States District Attorney for the Southern District of California, Southern Division, Greeting:

YOU ARE HEREBY CITED AND ADMONISHED to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 5th day of June, A. D. 1914, pursuant to a

Writ of Error, filed in the Clerk's office of the United States District Court of the Southern District of California, Southern Division, in that certain action No. 575 Criminal, wherein Sam Yick and Jung Kim, *alias* Jung Chung, are plaintiffs in error, and you are the defendant in error, to show cause, if any there be, why the judgment and sentence given, made and rendered against the said plaintiffs in error, as in the said Writ of Error mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable OLIN WELLBORN, United States District Judge for the Southern District of California, Southern Division, this 8th day of May, 1914, and of the Independence of the United States the One Hundred and Thirty-eighth.

OLIN WELLBORN,

United States District Judge.

Receipt of a copy of the within citation is hereby admitted, this 8th day of May, 1914.

ALBERT SCHOONOVER,

United States District Attorney for the Southern District of California.

By DUKE STONE,

Assistant District Attorney. [9]

[Endorsed]: No. 575—Criminal. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Plaintiff, vs. Sam Yick and Jung Kim, *alias* Jung Chung, Defendants. Citation. Filed May 8, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [10]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

No. 575—CRIM.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM, *alias* JUNG CHUNG,
Defendants. [11]

[Indictment.]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

At a stated term of said Court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Southern Division of the Southern District of California, on the second Monday of July, in the year of our Lord one thousand nine hundred and twelve,—

The Grand Jurors of the United States of America, chosen, selected and sworn, within and for the Division and District aforesaid, on their oath present:

That Sam Yick and Jung Kim, *alias* Jang Chung, whose full and true names, other than as herein stated, are, and each of them is, to the Grand Jurors unknown, heretofore, to wit, on the 24th day of August, in the year of our Lord one thousand nine hundred and eleven, at and within the County of Kern, in the Southern District of California, and within the jurisdiction of this Honorable Court, did

knowingly, wilfully, wickedly, unlawfully, corruptly and feloniously conspire, combine, confederate and agree together, and with divers other persons, whose names are to the said Grand Jurors unknown, to commit certain offenses against the United States, that is to say:

They, the said Sam Yick and Jung Kim, *alias* Jang Chung, did, at the time and place aforesaid, knowingly, wilfully, wickedly unlawfully, corruptly and feloniously conspire, combine, confederate and agree together and with said divers other persons, whose names are, as aforesaid, to the Grand Jurors unknown, to wilfully, unlawfully and knowingly bring into, and cause to brought into, and aid and abet the bringing into the United States of America, by land, at divers points and places in the Southern Division of the Southern District of California, said [12] points and places, except as herein stated, being to the Grand Jurors unknown, from divers points and places in the Republic of Mexico, to wit, from the town of Tia Juana in said Republic of Mexico, and from other points and places in said Republic of Mexico, the names of which said other points and places being to said Grand Jurors unknown, certain Chinese persons, to wit, Dock Yook, See Chew and Wah Sung, each being a Chinese person, and any and all other and additional Chinese persons who were then, and those who would thereafter be in said Republic of Mexico, desiring and intending to enter the United States, whose names are, and each of them is, other than as herein stated, to the Grand Jurors unknown, and which said Chinese persons, as they,

the said Sam Yick and Jung Kim *alias* Jang Chung, and said divers other persons, whose names are to the Grand Jurors unknown, then and there well knew, were not, nor was either or any of them, then and there, or at any time thereafter, or at all, entitled, permitted or allowed by the laws of the United States, to enter or remain in the United States, and each of which said Chinese persons, as they, the said Yam Yick and Jung Kim, *alias* Jang Chung, and the said divers other persons, then and there and at all times in this indictment mentioned and referred to, well knew, was then and there and at all times in this indictment mentioned and referred to, would be a Chinese laborer and native of China and a person of Chinese descent, and would not have and would not be entitled to have a certificate of residence entitling him to enter, be or remain in the United States.

That said conspiracy, confederation, combination and agreement between said Sam Yick and Jung Kim, *alias* [13] Jang Chung, and the said divers other persons whose names are, as aforesaid, to the Grand Jurors unknown, was continuously throughout all of the times from *from* and after said 24th day of August in the year of our Lord one thousand nine hundred and eleven, and at all of the times in this indictment mentioned and referred to, and particularly at the time of the commission of each and all of the overt acts in this indictment hereinafter set forth, in existence and process of execution.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said Jung Kim, *alias* Jang Chung, did, on September 8, 1911, at the City of Bakersfield, in the County of Kern, State of California, purchase a certain railway ticket for his transportation from said City of Bakersfield to the City of San Diego, County of San Diego, State of California, and did, on said September 8, 1911, leave and depart from said City of Bakersfield over the line of the Southern Pacific Railway, and did travel from said City of Bakerseld to the said City of San Diego in the State of California.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in further execution of said conspiracy, combination, confederation and agreement, and to further effect and accomplish the object thereof, the said Jung Kim, *alias* Jang Chung, on the 13th day of September, 1911, did leave the city of San Diego, California, and go to the town of Tia Juana, Mexico, for the purpose of arranging to bring three certain Chinese persons, to wit, said Dock Yook, See Chew and Wah Sung, from said town of Tia [14] Juana, Mexico, into the United States, across the international boundary line between the United States and the Republic of Mexico, at a point on said boundary line near said Tia Juana, Mexico, the exact location of said point being to the Grand Jurors unknown, the said three Chinese persons, and each of them, as they, the said Sam Yick and Jung Kim, *alias* Jang Chung, and said divers other persons to

the Grand Jurors unknown, and each of them, then and there well knew, not being then and there or at any time in this indictment mentioned and referred to lawfully entitled to enter, be or remain in the United States, and each of said three Chinese persons, to wit, said Dock Yook, See Chew and Wah Sung, being then and there and at all times in this indictment mentioned and referred to, a Chinese laborer and a native of China and a person of Chinese descent, not having and not entitled to have a certificate of residence entitling him to enter, be or remain in the United States.

Contrary to the form of the Statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

A. I. McCORMICK,
United States Attorney.

HARRY R. ARCHBALD,
Assistant United States Attorney.

[Endorsed]: No. 575—Crim. United States District Court, Southern District of California, Southern Division. The United States of America vs. Sam Yick and Jung Kim, *alias* Jang Chung. Indictment for Violation Sec. 37, Act of March 4, 1909, Chap. 321. Conspiring to smuggle Chinese laborers into the United [15] States by land. A True Bill. H. G. Krohn, Foreman. Presented and filed in open court, this 2d day of January, A. D. 1913. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. _____, United States Attorney. [16]

[Arraignment and Pleas of Defendants.]**COPY PLEA.**

At a stated term, to wit, the January Term, A. D. 1913, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Thursday, the 24th day of April, in the year of our Lord one thousand nine hundred and thirteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM, *alias* JANG CHUNG,
Defendants.

This cause coming on this day by consent for the arraignments of defendants and for the entry of their pleas; Dudley W. Robinson, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on bail, with their counsel, John G. Mott, Esq., and Isidore B. Dockweiler, Esq.; and defendants having been severally called and arraigned, having stated that their true names are respectively Sam Yick and Jung Kim, and having waived the reading of the indictment, and, on being required to plead to said indictment, said defendants having each pleaded not guilty as charged

therein, said pleas are now, by order of the Court, hereby entered herein. [17]

[Minutes of Trial—March 24, 1914.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Tuesday, the 24th day of March, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on this day to be tried before the Court and a jury to be impanelled; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; and both sides having answered ready; and the Court having ordered that the trial proceed, and that a jury be impanelled herein; and John P. Doyle having been sworn as shorthand reporter of the testimony and proceedings, and acting as such; and the following

twelve (12) term trial jurors having been duly drawn, called, and sworn on *voir dire*, to wit: Andrew T. Gray, Arthur W. Ballard, George A. Ralphs, E. G. Russell, Louis Blankenhorn, John R. Grant, Harry P. Hubbard, Fred W. Marshall, G. W. Bartels, Edwin F. Hill, G. L. Davidson and Arthur E. Cummings; and a statement of the nature of the case having been made by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; and said twelve jurors having been examined by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, and by [18] John G. Mott, Esq., of counsel for defendants, and passed for cause; and John R. Grant having been challenged peremptorily by the Government and excused; and F. M. Adams, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants and passed for cause; and Andrew T. Gray having been challenged peremptorily by defendants and excused; and Frank L. A. Violet, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, and passed for cause; and B. W. Bartels having been challenged peremptorily by the Government and excused; and William Bayley, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, and passed for cause; and Frank L. A. Violet having been challenged peremptorily by defendants, and excused; and Wm. D. Byram, a term trial juror,

having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, and passed for cause; and William Bayley having been challenged peremptorily by the Government and excused; and John S. Winchester, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, and said juror having thereupon been challenged for cause by defendants and excused by the Court; and G. L. Davidson having been challenged peremptorily by the defendants and excused; and Geo. W. Van Alstyne, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, and passed for cause; and Louis Blankenhorn having been challenged peremptorily by the Government and excused; and Samuel Rees, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, [19] and passed for cause; and Arthur W. Ballard having been challenged peremptorily by defendants and excused; and Robert C. P. Smith, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants, and passed for cause; and the twelve (12) jurors now in the box having been accepted by counsel for both sides and sworn in a body as the jury to try this cause, said jury as so impanelled and sworn consisting of the following named jurors, to wit:

JURY.

- | | |
|------------------------|--------------------------|
| 1. Wm. D. Byram, | 7. Harry P. Hubbard, |
| 2. Robert C. P. Smith, | 8. Fred W. Marshall. |
| 3. George A. Ralphs, | 9. Wm. E. Reavis, |
| 4. E. G. Russell, | 10. Edwin F. Hill, |
| 5. Samuel Rees, | 11. Geo. W. Van Alstyne, |
| 6. F. M. Adams, | 12. Arthur E. Cummings; |

said cause is thereupon, at the hour of 11:35 o'clock A. M., passed temporarily for further trial, to enable the Court to enter an order in a bankruptcy matter.

(At 11:38 A. M.)

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on now, at the hour of 11:38 o'clock, A. M., to be further tried before the Court and a jury heretofore duly impanelled herein, Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle [20] being present as shorthand reporter of the testimony and proceedings and acting as such; and the jury all being present in court, not having left their seats; and the indictment having been read and defendants' pleas of not guilty having been stated to the jury by the Clerk; and

Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, having made a statement to the jury of what the Government expects to prove; and Edward P. Morse having been called and sworn as a witness on behalf of the United States, and having given his testimony; and the Court having, at the hour of 11:55 o'clock A. M., admonished the jury that, during the progress of this trial, they are not to permit other persons to talk to them nor themselves talk to other persons about this case or anything connected with this case, and that, until said case is finally given them for consideration, under the instructions of the Court, they are not to talk to each other about this case or anything connected therewith; and the Court having thereupon excused the jury until the hour of 2 o'clock P. M. of this day; and court, at the hour of 12:23 o'clock P. M., having taken a recess until the hour of 2 o'clock P. M., of this day;

And now, at the hour of 2 o'clock P. M., of this day, court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Edward P. Morse, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered the following exhibits, which are admitted in evidence in its behalf, to wit: U. S. Ex. 1, Letter of May 9, 1911, and envelope, addressed "*Eward P. Moorse*"; U. S. Ex. 2, Letter of August 4, 1911, and envelope, ad-

dressed "Edward P. *Moose*"; U. S. Ex. 3, four slips with Chinese characters [21] thereon; U. S. Ex. 4, Duplicate slips; U. S. Ex. 5, Receipt for three twenty dollar gold coins; and U. S. Ex. 6, three twenty dollar gold pieces; and the jury having been given the usual admonition by the Court; it is, at the hour of 3:55 o'clock P. M., ordered that this cause be, and the same hereby is continued until Wednesday, the 25th day of March, 1914, at 10:30 o'clock A. M., for further trial, until which time the jurors are excused. [22]

[Minutes of Trial—March 25, 1914.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Wednesday, the 25th day of March, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert

O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; and N. H. Peterson having been sworn as shorthand reporter of the testimony and proceedings, and said N. H. Peterson and John P. Doyle being present as shorthand reporters of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Edward P. Morse, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and the Court having given the jury the usual admonition; it is ordered that this cause be, and the same hereby is continued until the hour of 2 o'clock P. M., of this day for further trial, until which time the jurors are excused. [23]

(At 2 P. M.)

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on at this time to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present in court, on their own recognizance,

with their counsel, John G. Mott, Esq., and I. B. Dockdeiler, Esq.; N. H. Peterson being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and the jury, at the hour of 2:01 o'clock P. M., having been excused from the courtroom temporarily during the argument of a point of law; and a certain point of law having been argued, on behalf of defendants, by I. B. Dockweiler, Esq., of counsel for defendants; and the jury, at the hour of 2:51 o'clock P. M., having been called into court; and the roll of the jury having been called, and all being present; and the Court having given the jury the usual admonition; it is, at the hour of 2:52 o'clock P. M., ordered that the jury be, and they hereby are excused until Thursday, the 26th day of March, 1914, at 10:30 o'clock A. M.; and a certain point of law having been argued, on behalf of the Government, by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; and court, at the hour of 3 o'clock P. M., having taken a recess for 5 minutes; and now, at the hour of 3:05 o'clock P. M., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and a certain point of law [24] having been further argued on behalf of the Government, by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; it is, at the hour of 3:25 o'clock P. M., ordered that this cause be, and the same hereby is continued until Thursday, the 26th day of March, 1914, at 10:30 o'clock A. M., for further trial. [25]

[Minutes of Trial—March 26, 1914.]

At a stated term, to wit, the January Term A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Thursday, the 26th day of March, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle and N. H. Peterson being present as shorthand reporters of the testimony and proceedings, and acting as such; and the roll of the jury having been called, in connection with the call of the roll of the entire panel of term trial jurors, and all being present; and Edward P. Morse, a witness on behalf of the United States, having resumed the

stand for further examination, and having given his testimony; and court, at the hour of 11:08 o'clock A. M., having taken a recess for 7 minutes; and now, at the hour of 11:15 o'clock A. M., court having reconvened; and defendants and counsel being present as before; N. H. Peterson being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Edward P. Morse, a witness on behalf [26] of the United States, being on the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered for identification a telegram to Gai Shee, which is for identification marked U. S. Exhibit 7; and Wm. E. Giddings, Mrs. Edna Giddings, W. J. Weems, R. R. Jackson, and A. G. Bernard having respectively been called and sworn as witnesses on behalf of the United States, and having given their testimony; and, in connection with the testimony of said last witness, the Government having offered a slip with the address of Mee Hong thereon, which is admitted in evidence as U. S. Ex. 8; and court, at the hour of 12:23 o'clock P. M., having taken a recess until the hour of 2 o'clock P. M., of this day.

And now, at the hour of 2 o'clock P. M., court having reconvened; and defendants and counsel being present as before; N. H. Peterson being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and A. G. Bernard, a witness on behalf of the United

States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the government having offered two exhibits, which are admitted in evidence in its behalf, to wit: U. S. Ex. 9, a note; and U. S. Ex. 7 (heretofore offered and marked for identification), telegram to Gai Shee; and, also in connection with the testimony of said witness, the Government having offered for identification a Chinese letter and a translation thereof, which are together marked for identification U. S. Ex. 10; and, also in connection with said testimony, the defendants having offered a Memorandum Book, which is admitted in evidence in their behalf as "Defts.' Ex. A; and, by consent of counsel, the following witnesses having been called on behalf of defendant (out of regular order), to wit: [27] F. G. Munzer, Arthur Weaver, Charles E. Baer, Charles H. Sherbin, and F. G. Colton, who are respectively duly sworn and give their testimony on behalf of said defendants; and Adolph R. Neilson having been duly called and sworn as a witness on behalf of the United States, and having given his testimony; it is, at the hour of 4:22 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until Friday, the 27th day of March, 1914, at 10:30 o'clock A. M., until which time the jurors are excused. [28]

[Minutes of Trial—March 27, 1914.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Friday, the 27th day of March, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
SAM YICK and JUNG KIM,
Defendants.

This cause coming on this day to be further tried before the court and a jury heretofore duly impaneled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Chan Kiu Sing having been called and sworn as a witness on behalf of the United States, and having given his testimony; and, in connection with the testimony of said witness, the Government

having offered a Chinese letter and a translation thereof, heretofore offered and marked for identification, which are together admitted in evidence as U. S. Ex. 10; and Edward P. Morse, a witness on behalf of the United States, having been recalled for further examination, and having given his testimony; and George M. Sears, B. Moriarity, J. K. Wilson, H. T. Christian, Martha L. McCrea, Elizabeth Dickson, Mrs. Carrie McCrea, and Charles T. Connell having respectively [29] been called and sworn as witnesses on behalf of the United States, and having given their testimony; it is, at the hour of 12 o'clock M., ordered that this cause be, and the same hereby is continued for further trial until the hour of 2 o'clock P. M., of this day, until which time the jurors are excused.

(At 2 P. M.)

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SAM YICK and JUNG KIM,
Defendants.

This cause coming on at this time to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand re-

porter of the testimony and proceedings; and the roll of the jury having been called, and all being present; and Rowen Irwin having been called (out of order, by consent of counsel) as a witness on behalf of defendants, and having been sworn and having given his testimony; and Charles A. Kruse having been called and sworn as a witness on behalf of defendants, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered a Receipt for \$60.00, which is admitted in evidence in its behalf as U. S. Ex. 11; and C. K. Badger having been called and sworn as a witness on behalf of the United States, and having given his testimony; and Edward P. Morse, a witness on behalf of the United States, having been recalled for further examination, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered [30] for identification the following exhibits, which are for identification marked with the following exhibit designations, to wit: U. S. Ex. "A," Chinese letter of Sept. 3, 1911; U. S. Ex. 12-B, Chinese letter, 8th month, 3d day; U. S. Ex. 12-C, Chinese letter of Oct. 22, 1911; U. S. Ex. 12-D, Chinese letter of first part of June, 1911; U. S. Ex. 12-E, Chinese letter of Spring of 1912; U. S. Ex. 12-F, Chinese letter of 8th month, 3d day; U. S. Ex. 12-G, Chinese letter of 7th month, 11th day; U. S. Ex. 12-H, Chinese letter of June 13, 1911; U. S. Ex. 12-I, Chinese letter of June 4th, 1911; U. S. Ex. 12-J, Chinese letter of Apr. 13, 1911; U. S. Ex. 12-K, Chinese letter of April 14, 1911; and U. S. Ex. 12-L, Chinese

letter of April 7, 1911; and the Government having rested; and James Curran, D. B. Nuelle, J. R. Williams, Charles H. Quincy, William E. Deucon, David S. Stern, Frank W. Robinson, Joseph Morley and H. I. Tupman having respectively been called and sworn as witnesses on behalf of defendants, and having given their testimony; and counsel for the respective parties having stipulated that the Chinese letters heretofore offered and marked for identification as U. S. Exhibits 12-A to 12-L, inclusive, may be temporarily withdrawn by defendants from the custody of the Clerk, upon the leaving of a receipt therefor, by said defendants; it is, at the hour of 3:27 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until Tuesday, the 31st day of March, 1914, at 10:30 o'clock A. M., until which time the jury are excused. [31]

[Minutes of Trial—March 31, 1914.]

At a stated term, to wit, the January term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Tuesday, the 31st day of March, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jurors having been called, in connection with the call of the roll of the entire panel of term trial jurors, and all the jurors being present; and Charles E. Kruse, a witness on behalf of the United States, having been recalled for further examination, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered for identification an envelope postmarked Aug. 18, 1911, and a Chinese letter, which are together marked for identification U. S. Ex. 12; and the jury, at the hour of 11:28 o'clock A. M., having been excused until the hour of 2 o'clock P. M., of this day; and a question of law having been argued, on [32] behalf of defendants, by I. B. Dockweiler, Esq., of counsel for defendants, and on behalf of the Government by

Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; it is, at the hour of 12:03 o'clock P. M., ordered that this cause be, and the same hereby is continued until the hour of 2 o'clock P. M., of this day for further trial.

(At 2 P. M.)

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

This cause coming on at this time to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and the Government having offered the following exhibits, heretofore offered and marked for identification, each of said exhibits consisting of a Chinese letter and a translation thereof, which are admitted in evidence on behalf of the United States, to wit: U. S. Ex. 12-J; U. S. Ex. 12-L; U. S. Ex. 12-K; U. S. Ex. 12-I; U. S. Ex. 12-D; U. S. Ex. 12-H; U. S. Ex. 12-M; U. S. Ex. 12-A; and U. S. Ex 12-G; and Duke Stone, Esq., Assisant U. S. Attorney, of counsel for

the United States, and I. B. Dockweiler, Esq., of counsel for defendants, having stipulated that said exhibits may be temporarily withdrawn from the files by the shorthand reporter for use in the preparation of his transcript of testimony and proceedings, to be thereafter returned [33] to the files herein; and the Government having rested; and James M. Hunter, James E. Anderson and Dr. Thomas Filbel having respectively been called and sworn as witnesses on behalf of defendants, and having given their testimony; and the jury, at the hour of 3:06 o'clock P. M., having been excused from the courtroom temporarily during an argument of counsel; and a certain question of law having been argued by respective counsel; and the jury, at the hour of 3:14 o'clock P. M., having been called into court; and the roll of the jury having been called, and all being present; and Lee Shee having been called and sworn as a witness on behalf of defendant, and having given her testimony through Chan Kiu Sing, interpreter of the Chinese and English languages; and court, at the hour of 3:25 o'clock P. M., having taken a recess for 5 minutes; and now, at the hour of 3:30 o'clock P. M., Court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Jung Kim, one of the defendants, having been called and sworn as a witness on behalf of defendants, and having given his testimony, through Chan Kiu Sing, interpreter of the Chinese and English languages; and Sam Yick, one of the defendants, having been called and sworn as

a witness in his own behalf, and having given his testimony; and defendants having rested; and Edward P. Morse, a witness on behalf of the United States, having been recalled for further examination in rebuttal, and having given his testimony; and court, at the hour of 4:20 o'clock P. M., having taken a recess for 5 minutes; and now, at the hour of 4:25 o'clock P. M., court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Edward P. Morse, a witness on behalf of the United States, being on the stand for further examination in rebuttal, and having given his [34] testimony; and Forest B. Owen having been called and sworn as a witness on behalf of the United States in rebuttal, and having given his testimony; and, in connection with the cross-examination of said witness, defendants having offered a Sketch, which is admitted in evidence in their behalf as Defts. Ex. "B"; it is, at the hour of 4:38 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until Wednesday, the 1st day of April, 1914, at 2 o'clock P. M., until which time the jurors are excused. [35]

[Minutes of Trial—April 1, 1914.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on

Wednesday, the 1st day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—Crim S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants,

This cause coming on at this time to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand reporter of the proceedings, and acting as such; and the roll of the jury having been called, and all being present; and said cause having been argued to the jury, on behalf of the Government, by Robert O'Connor, Esq., Assistant U. S. Attorney, of counsel for the United States, and on behalf of defendants by I. B. Dockweiler, Esq., and John G. Mott, Esq., of counsel for defendants, and court, at the hour of 3:25 o'clock, P. M., having taken a recess for 8 minutes; and now, at the hour of 3:33 o'clock P. M., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and the roll of the jury having been called, and all being

present; and said cause having been further argued [36] to the jury, on behalf of the Government, by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; it is, at the hour of 4:12 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until Thursday, the 2nd day of April, 1914, at 10:30 o'clock A. M., until which time the jurors are excused. [37]

[Minutes of Trial—April 2, 1914.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the City of Los Angeles, on Thursday, the 2d day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SAM YICK and JUNG KIM,
Defendants,

This cause coming on this day to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants

being present, on their own recognizance, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand reporter of the proceedings; and the roll of the jury having been called, in connection with the calling of the roll of the entire panel of term trial jurors, and all being present; and the Court having read to the jury its written instructions; and the requirements of Rule 22 of the Rules of practice of this Court as to presentation of written exceptions to the Judge's charge before the jury leave the box having been waived in open court by counsel for the respective parties; it is ordered that the instructions requested by defendants be, and they are hereby refused, except in so far as the same may have been embodied in the instructions given by the Court; and it is further ordered that exceptions be, and they hereby are noted herein to each and every of the instructions given by the [38] Court, and to the refusal of the Court to give each and every of the instructions requested by defendants, which the court refused to give; whereupon, at the hour of 10:48 o'clock A. M., the jury retire to consider their verdict.

(At 11:55 A. M.)

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants,

The jury having now, at the hour of 11:55 o'clock, A. M., been called into court; Robert O'Connor, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on their own recognizance, with their counsel, John G. Mott, Esq., John P. Doyle being present as shorthand reporter of the proceedings, and acting as such; and the roll of the jury having been called, and all being present; and the jurors having been asked if they have agreed upon a verdict, and having replied that they have not so agreed; it is ordered that the U. S. Marshal for this District take said jurors to some suitable place for their dinner, said dinner, for the jurors and the accompanying officers, to be at the expense of the United States, and that thereafter said Marshal return said jurors to their room for further consideration of their verdict.

(At 3:02 P. M.)

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants,

The jury, at the hour of 3:02 o'clock P. M., having come into court; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; [39] defendants being present on their own recognizance, with their counsel, John G. Mott, Esq.; John P. Doyle being present as shorthand reporter of the testimony and

proceedings; and the roll of the jury having been called, and all being present; and the jurors having been asked if they have agreed upon a verdict, and having by their foreman replied that they have so agreed, and having been required to state their verdict, and their verdict having been read by the foreman; now, by direction of the court, said verdict is filed and recorded by the Clerk, said verdict being as follows, and the following being the record thereof, to wit:

*In the District Court of the United States, for the
Southern District of California, Southern Di-
vision.*

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK and JUNG KIM,

Defendants.

We, the jury in the above-entitled cause, find the defendants, Sam Yick and Jung Kim, guilty as charged in the indictment.

Los Angeles, April 2, 1914.

FRED W. MARSHALL,

Foreman.

and said verdict having been read to the jury as so recorded, and the jurors having said that it is their verdict; it is now by the Court ordered that said jurors be, and they hereby are excused until Tuesday, the 7th day of April, 1914, at 10:30 o'clock A. M.;

and it is further ordered, on motion of John G. Mott, Esq., of counsel for defendants, and with the consent of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, that defendants be, and they hereby are granted thirty (30) days within which to move for a new trial herein, to prepare, serve and file their proposed bill of exceptions herein, or take such other steps as they may be advised, [40] and that a stay of execution of judgment herein for thirty (30) days be, and hereby is granted said defendants; and it is further ordered, on motion of Duke Stone Esq., Assistant U. S. Attorney, of counsel for the United States, that the bail of defendants, now present on their own recognizance, be, and the same hereby is fixed at \$3,000.00 each. Defendants are remanded to the custody of the U. S. Marshall. [41]

[Verdict.]

*In the District Court of the United States, for the
Southern District of California, Southern Di-
vision.*

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SAM YICK and JUNG KIM,
Defendants.

We, the jury in the above-entitled cause, find the defendants, Sam Yick and Jung Kim, Guilty as

charged in the indictment.

Los Angeles, April 2, 1914.

FRED W. MARSHALL,
Foreman.

[Endorsed]: 575. Crim. U. S. District Court, Southern Dist. of Calif. Southern Division. United States vs. Sam Yick et al. Verdict. Filed April 2, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. [42.]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

No. 575—CRIMINAL.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

SAM YICK, and JUNG KIM, *alias* JUNG CHUNG,
Defendants.

Motion for a New Trial.

Come now Sam Yick, and Jung Kim, *alias* Jung Chung, and each of them, and move said Honorable Court to vacate and set aside the verdict of guilty herein rendered and recorded on the second day of April, 1914, and to grant to said defendants, and each of them, a new trial herein, for the following reasons;

I.

That said verdict is contrary to law.

II.

That said verdict is contrary to the evidence.

III.

That the said Court misdirected the said jury in matters of law.

IV.

That the said Court has erred in the decision of questions of law arising during the course of the trial.

V.

That the said Court erred in certain particulars of its general charge, excepted by the defendants, and each of them, at the time.

VI.

That the said Court erred in refusing to give to the [43] jury certain charges specially asked for by the defendants, and to which refusal said defendants, and each of them, at the time duly excepted.

VII.

The Court erred in refusing to compel the United States District Attorney and the Immigration officials, and each of them, to surrender and to deliver to the defendant Sam Yick upon his demand therefor those certain letters and papers secured and obtained from the trustees in the Sam Yick Company bankruptcy case, and which letters and papers were subsequent to such demand, and against defendants' objections, introduced in evidence by plaintiffs, and to which action of the Court defendants duly excepted.

VIII.

That the said Court erred in admitting in evidence, against defendants' objections, the plaintiffs' exhibits, marked respectively: United States Exhibits 12-A, 12-B, 12-C, 12-D, 12-E, 12-F, 12-G, 12-H,

12-I, 12-J, 12-K 12-L, 12-M, and 8, and each of them, and to which action of the Court defendants duly excepted.

IX.

That there were other errors of law appearing upon the trial prejudicial to the defendants, and each of them.

X.

Misconduct on the part of the counsel for the Government, which prevented defendants from having a fair and impartial trial, and to which defendants duly excepted.

The said motion will be made and based upon the minutes of the Court, including the notes of the evidence taken by the Judge who tried said cause, as well as all the evidence given and received in the case and transcribed by the reporter, and all proceedings in the case so transcribed, which also included the whole [44] testimony in the case and all the rulings made therein and excepted to by the defendants, and all other proceedings, and also upon all the pleadings, proceedings, records, exhibits, instructions and papers on file in said action with the clerk in the clerk's office of said court.

Dated April 27th, 1914.

MOTT and DILLON,
ISIDORE B. DOCKWEILER,
Attorneys for said Defendants.

[Endorsed]: No. 575—Criminal. Dept. In the District Court of the United States, in and for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. Sam Yick and

Jung Kim, *alias* Jung Chung, Defendants. Motion for a new trial. Filed Apr. 30, 1914, at 55 min. past 4 o'clock, P. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. Service of the within motion is hereby admitted this 27 day of April, 1914. Duke Stone, Asst. U. S. Atty., Attorney for Pltf. Isidore B. Dockweiler, Suite 502 Douglas Bldg., Office Tel. Main 1320 (Sunset), Home 1320, Los Angeles, Cal., Attorney for Defendants. [45]

**Copy Order Denying Motion for New Trial, and the
Judgment of the Court.**

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Monday, the 4th day of May, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SAM YICK and JUNG KIM,
Defendants.

This cause coming on at this time to be heard on defendants' motion for a new trial; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on

bail, with their counsel, John G. Mott, Esq., and I. B. Dockweiler, Esq.; John P. Doyle being present as shorthand reporter of the proceedings, and acting as such; and said motion for a new trial having been argued, in support thereof, by I. B. Dockweiler, Esq., of counsel for defendant; and this cause having been submitted to the Court for its consideration and decision on said motion for a new trial and the oral argument thereof; it is by the Court ordered that defendants' motion for a new trial be, and the same hereby is denied, to which ruling of the Court, on motion of defendants and by direction of the Court, exceptions are hereby noted on behalf of said defendants; and said cause thereupon coming on for the sentence of defendants; and statements in mitigation of sentence having been made by John G. Mott, Esq., and I. B. Dockweiler, Esq.; and [46] statements concerning sentence having been made by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; the Court thereupon pronounces sentence upon said defendants for the offense of which they stand convicted, namely: the offense of conspiring to smuggle Chinese laborers into the United States by land, in violation of Section 37 of the United States Criminal Code, as follows, to wit: The Judgment of the Court is, that the defendant Sam Yick be imprisoned for the term of one year in the County Jail of Kern County, California, and the Judgment of the Court is, that the defendant Jung Kim be imprisoned in the County Jail of Kern County, California, for the term of six (6) months; whereupon, on motion of said defendants, by their

said counsel, it is ordered that a stay of execution of judgment herein until Monday, the 1st day of June, 1914, be, and the same hereby is granted said two defendants; and it is further ordered, on motion of defendants, by their said counsel, and with the consent of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, that said defendants go and remain under their present bail bond until Tuesday, the 5th day of May, 1914, at 2 o'clock P. M.
[47]

[Certificate of Clerk U. S. District Court to Judgment-roll.]

*In the District Court of the United States, for the
Southern District of California, Southern Division.*

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SAM YICK et al.,

Defendants.

I, Wm. M. Van Dyke, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing to be a true copy of the Judgment entered in the above-entitled cause, and I further certify that the foregoing papers hereto annexed constitute the Judgment-roll in said cause.

Attest my hand and the seal of said District Court,
this 8th day of May, A. D. 1914.

[Seal]

WM. M. VAN DYKE,

Clerk.

By Murray C. White,

Deputy Clerk. [48]

*In the United States District Court Within and for
the Southern District of California, Southern
Division.*

Hon. OLIN WELLBORN, Judge Presiding.

No. 575—CRIMINAL.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAM YICK and JUNG KIM, *alias* JANG CHUNG,
Defendants.

**Bill of Exceptions on Behalf of Defendants Sam
Yick and Jung Kim.**

BE IT REMEMBERED that heretofore the grand jury of the United States of America in and for the Southern District of California, Southern Division, did find and return in the above-entitled court its indictment against Sam Yick and Jung Kim, *alias* Jang Chung, and thereafter said defendants appeared in said court, having duly pleaded as shown by the record therein, and the case being at issue, the same came on regularly for trial on the 24th day of March, 1914, before the said District Court, Hon. Olin Wellborn, Judge Presiding, the plaintiff, United

States of America, being represented by Duke Stone, Esq., and J. Robert O'Connor, Esq., and the defendants by John G. Mott, Esq., and I. B. Dockweiler, Esq. Upon instructions the clerk read the indictment upon which the defendants were to be tried to the jury which had theretofore been duly impanelled and sworn to try the case. Thereupon the following proceedings were had:

[Testimony of Edward P. Morse, for the Government.]

EDWARD P. MORSE, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE. [49]

My name is Edward P. Morse. At the present time I live in Santa Barbara, California. My business or occupation is that of immigrant inspector. I have been such immigrant inspector since May 28th, 1910. In May, 1911, I was stationed at Bakersfield, California, as immigrant inspector, and at that time had been so stationed for about four and one half months. I know both the defendants Sam Yick and Jung Kim, I became acquainted with both of them at Bakersfield about January, 1911. I would see the defendant Sam Yick about once a week from January to May, 1911, the occasions of my seeing him would be when I was in search of some Chinaman that I had occasion to look up in connection with certain cases or certain papers that I had to prepare. I wanted to find out who the Chinaman was and would ask some Chinese who talked English where he was so that I could locate him.

(Testimony of Edward P. Morse.)

Q. Did this defendant Sam Yick come to you or have any talk with you at any time in reference to smuggling Chinese?

A. Yes, sir, he had a talk with me in reference to smuggling Chinese the first time on the 8th of May, 1911.

Q. Will you please state to the jury where you were and the facts and circumstances as they occurred and what he said?

A. I had a paper sent me from the Los Angeles office to look up a Chinaman and get an application for a duplicate certificate, by the name of Woo Jung Sing. The Chinaman was unknown to me and among places I went to Sam Yick's office to see if he knew him. He told me he did know him very well, and I asked him where he was and he said he was on a ranch about five miles south of Bakersfield, and I asked him if they had any phone there so that he could call him up and ask him to come in, and he said no. I then asked him if he could get word to him to have him come in or to let me know when he was in town next time, and he said he couldn't do that very well, [50] and he said he knew this man couldn't get away very easily from where he worked and he wanted me to go out to this ranch where he worked.

At first I told him I didn't care to go, but he was very insistent, and said he would take me out in a rig at his own expense and bring me back, and that he wanted to have a talk with me any way, and that would suit better all around if I would go out with

(Testimony of Edward P. Morse.)

him. So I went out with him in the afternoon of that day.

Q. (By Mr. STONE.) What date was that?

A. The 8th of May, 1911.

Q. Where did you go from?

A. From Sam Yick's store. I met him at the store.

Q. What town and street?

A. Bakersfield, California, number 723 Eighteenth Street. I met him at the store and went right from there. He had the rig there. On the way out he asked me what salary I was getting, and whether I had a family to support, and if I could save any money off the salary I was getting, and if I had any opportunity to make money on the side, and how much money I made on the side; but I answered rather shortly: I didn't consider it any of his business; and for the time being the subject was dropped. Then I went out there and examined this man, and on the way back he brought up the matter again and he asked me if I didn't want to make more money than I was making [51] and I asked him how he meant. Well, he said that I arrested a good many Chinese around Bakersfield, and that if I would bring those Chinese to his store instead of taking them to the jail he would pay me one hundred dollars for each one brought there if I would release them. I asked him who would pay the money and he said he would individually. I asked him how he could afford to do that. Well, he said these Chinese would pay the money back to him and he would charge them in-

(Testimony of Edward P. Morse.)

terest. He would make something off it and I would make one hundred dollars. I told him I would consider it. Then he said if I wanted to make more money than that, if I could prepare papers for some Chinese that were in Mexico, so as to enable them to get to Bakersfield, he would be able to give me a good deal of business in that line, and I asked him where the Chinese would come from. Well, he said he had some friends in Juarez, Mexico, that wanted to come to Bakersfield; that he had letters from them in reference to coming here, and he wanted to know if I couldn't prepare papers purporting to show that these men were native-born citizens of the United States that would allow them to pass the inspectors on the way. He asked me how many inspectors there were between El Paso and Bakersfield, and I told him there was a great many located along the way, and he said I understood about making these papers and ought to be able to make a paper that would pass inspection down there; and I told him it would be pretty hard to do, but I would see what I could determine on it—see what could be done; and then he said it was so hard to bring them from Juarez that the best proposition would be to bring them in from down at Tia Juana, from Ensenada; that there was a lot of Chinese there that would come. Prior to this I had asked him or he had told me how much there would be in it for these Chinese in Juarez. He said there was two or three there that he knew would come, and probably more would [52] come if they could, and he said if I could fix up these papers so

(Testimony of Edward P. Morse.)

that they would pass I would get one hundred and fifty dollars for each paper, and he said it would be easier to get them in from Ensenada, if it looked good to me and I wanted to accept money that way, that he would bring in a good many Chinese from Ensenada, that he would write down immediately and see how many there were there; that he knew of several that would come and he knew there were a good many more; and that if I could get the Chinese in from Ensenada and bring them to Bakersfield and pay for them he would pay me two hundred and fifty dollars for each Chinese so brought in; and I told him I had never drawn up any papers of that sort and would have to get some data as to the best way to draw them up, and so forth, and he asked me if I couldn't use my seal. He supposed that I had a seal similar to the Commissioner's seal.

Mr. DOCKWEILER.—Now, the witness knows, if your Honor please, that the statement that he supposed—

A. (Witness continuing.) Well, he asked me if I didn't have a seal like the Commissioner's seal.

Mr. DOCKWEILER.—All right; why didn't you state that?

Mr. STONE.—We object to counsel arguing with the witness.

The COURT.—Do you mean that that was a part of the conversation, or was it your own idea?

The WITNESS.—No, sir, that was a part of the conversation.

The COURT.—I so understood it.

(Testimony of Edward P. Morse.)

A. (Witness continuing.) He said that I had a seal exactly the same as the Commissioner's seal. I told him that I did not have a seal exactly the same, but I didn't tell him that I didn't have any seal. I told him it would be necessary for me to look the matter up further before I could say anything further in reference to the matter, and he said all right, and in the meantime he would write down to Ensenada and find out [53] how many Chinese there would be ready to come and with that understanding I left him. That was the substance of our conversation that took up an hour and half or so, and I went home and immediately wrote a letter explaining the circumstances to the superior officer in Los Angeles asking for instructions as to what I should do.

Mr. DOCKWEILER.—Now, if your Honor please, we move to strike out that statement on the ground that it is incompetent, irrelevant and immaterial and not in reply to any question put to the witness at all and not pertinent in any way as to what he did.

The COURT.—I do not know about its pertinency, and I am not sure—

Mr. STONE.—I asked him to go ahead and state what was done and said on that day and all the facts connected with his conversation with him—the substance of it. I think it would be competent in a case of this kind.

The COURT.—To show his relation to the whole case I suppose?

Mr. STONE.—Yes. In other words, I presume

(Testimony of Edward P. Morse.)

the officer will be blamed for it, but I want to show that he acted under instructions of his superior officers, not only the immigration officers but the United States attorney's office here at that time. That is for the purpose of showing his good faith and his testimony will show that he went on through with the transaction until it was finally consummated, and he ought then to be permitted to show why he did it and under whose instructions as bearing up the question of his good faith.

The COURT.—I suppose that is the question.

Mr. DOCKWEILER.—Now, your Honor, we certainly contend right at the very threshold of the trial of this case that this witness cannot make evidence for himself in the absence of the defendant. Why, your Honor, what relevancy has his testimony [54] on the proposition that after he talked to Sam Yick, as he claims to have done,—what right *has to* say that, leaving Sam Yick, he sat down and wrote a letter to anybody—to your Honor, to the District Attorney or to myself? What difference does it make? What he did was outside of the presence of the defendant.

The COURT.—I understand that; but is it not competent always to show the relation of the witness?

Mr. DOCKWEILER.—In this connection?

The COURT.—Yes.

Mr. DOCKWEILER.—No, your Honor.

The COURT.—I presume what they want to show is—he has already developed that he was an officer, and that when this proposition was made to him he

(Testimony of Edward P. Morse.)

asked instructions of his superior as to what he should do, and that whatever else he did in the matter was pursuant to instructions.

Mr. STONE.—That is the point.

Mr. DOCKWEILER.—Now, your Honor, can that be done?

The COURT.—I am inclined to think it can. I will hear from you on that subject, however.

(Whereupon, the jury was duly admonished and excused until two o'clock P. M., and retired from the courtroom.) Thereupon argument and discussion was had on the objection above stated. At two o'clock P. M., the jury being present in court and defendants being present with their counsel, further discussion was had on the motion to strike out and motion was read.)

Thereupon, EDWARD P. MORSE, was recalled on behalf of the Government, and testified further as follows:

The COURT.—If you will add one other ground, I will sustain the objection,—that it is not best evidence.

Mr. STONE.—Yes, I will concede that, your Honor. Well, I might start a new question and cure that. The contents of [55] the letter, of course, is not competent.

The COURT.—Very well.

Q. (By Mr. STONE.) On your return from the trip there on May 8, did you write a letter to your superior officers here? A. I did.

(Testimony of Edward P. Morse.)

The COURT.—That motion to strike out is allowed. Now, the fact that he wrote a letter may or may not be incompetent; I cannot tell.

Mr. DOCKWEILER.—We will object to the question on the ground that it is incompetent, irrelevant and immaterial, for the sake of the record.

The COURT.—You are not proposing to go into the contents of the letter?

Mr. STONE.—No; I expect to follow this question up by asking him if he went in to see the superior officer.

The COURT.—Then just state what you expect to prove.

Mr. STONE.—I expect to prove that he wrote a letter about it to the superior officer on I believe the same day, May 8, and that he received a reply and then he came in to see the superior officer, Mr. Connell, and that he was instructed by Mr. Connell, after consultation with the then assistant United States Attorney, to go ahead and try to apprehend him by going in with him; then I expect to follow that up by showing that before Mr. Connell would take the initiative he wrote to his superior officers and got authority from them, even higher officers than Mr. Connell, the inspector in charge here, before this man did go ahead and participate in the matter.

The COURT.—I don't know that that instruction from higher officers has anything to do with the case.

Mr. STONE.—Well, I did not intend to lay any stress on the fact that they were higher officers, but

(Testimony of Edward P. Morse.)

the fact that he consulted the officer or officers here in charge.

The COURT.—It strikes me now that they would be competent [56] Mr. Dockweiler. I will hear from you if you want to say anything further. It is simply showing the attitude, or at least the claimed attitude of this witness. Your contention, I understand, will be different.

Mr. DOCKWEILER.—Yes.

The COURT.—But it seems to me that testimony is competent, as going to the credibility of the witness if nothing else, showing his relation in the case.

Mr. DOCKWEILER.—Then it is understood that we object to this line of testimony on the ground that the same is incompetent, irrelevant and immaterial, and self-serving, and that we have an exception to the admission of that type of testimony in evidence.

EXCEPTION OF DEFENDANT NOTED.

The COURT.—Oh, yes, certainly * * *

Mr. STONE.—I can go ahead and examine this witness as to all other matters, if your Honor desires, and then go back to this.

The COURT.—Very well. Then I will not rule on your matter for the present, Mr. Dockweiler; it is withdrawn for the present. Just let him testify to what occurred without undertaking to explain his relations to the case.

(Witness continuing (Edward P. Morse) testified as follows:)

The next conversation I had with the defendant, Sam Yick, was had at his store in Bakersfield about

(Testimony of Edward P. Morse.)

nine o'clock in the evening of May the 17th. I went to his store in response to a letter I received from Sam Yick.

(The letter referred to was here introduced in evidence as United States Exhibit No. 1 and read to the jury by Mr. Stone, and is as follows:) [57]

[United States Exhibit No. 1—Letter Dated May 9, 1911, Ah Sam to E. P. Morse.]

Bakersfield, Cal., May 9, 1911.

Dear Sir:—

Mr. E. P. Morse

I want you to come our my store and visiting to you
If you come tomorrow My 10 1911 at P.M. 8 O'clock.

AH. SAM,

723 18th St.,

Bakersfield,

Cal.

(Witness—continuing.) I received this letter in the sheriff's office where I got my mail, from Sam Yick.

Q. Did you know at that time whether Sam Yick had any other name or went by any other name than Sam Yick? A. I did.

Q. What was the name?

A. He belonged to the Jung family. I don't believe I could give his exact Chinese name, but it was Jung Chung Kim, I think. I might say further that in speaking of him he is sometimes spoken of as Ah Sam—Mr. Sam.

Q. Did you have any conversation with him in reference to this letter after you received it?

(Testimony of Edward P. Morse.)

A. Yes, sir; I did.

Q. Was anything said about who wrote the letter?

A. I asked him if he wrote the letter personally and he said he did and I complimented him on his way of writing English.

(Witness continuing.) A. Mr. Giddings went to Sam Yick's store with me on the night of May the 17th and stayed outside the store. I went in to the store and saw Sam Yick. He took me to a room in the rear of the store and asked me if I had not been able to prepare any papers by that time. I told him that I had not done anything on it up to that time, that I had been busy, and he said that he had thought the matter over and concluded that he could make a good deal of money by going into the business, that he had already written to Ensenada to make arrangements for the Chinamen to come from there, and that he had in mind in particular four [58] whom he knew would be glad to come right away, and that two hundred and fifty dollars a piece would be available for these four as soon as they arrived here at Bakersfield, and he asked me if I would be able to have the papers prepared for them by the time they got to Bakersfield. I told him that I did not know for certain. He told me to go to work and get the papers ready as soon as I could because the men would be ready to come over at any time, he said I would not be expected to assist in getting the men over, that he would look out for that end of it altogether, but he said that he would expect me to get the men past the immigration officers

(Testimony of Edward P. Morse.)

on the way. He asked me who inspected the trains at San Diego, and if I knew some way I could get the men past the inspecting officer there, and he asked me if I couldn't get the inspecting officer at San Diego [59] to go in with me on the proposition; he said that if I got two hundred dollars I could afford to give him (the inspecting officer at San Diego) fifty, and if I got two hundred and fifty dollars, I could afford to keep two hundred dollars and give this other man fifty. I told him that I thought perhaps it could be arranged that way; he then told that he would send a man down to San Diego to carry these men to Bakersfield, and he suggested that I should have the inspector in San Diego come up to Bakersfield and meet the man who was to go down to guide the Chinese coming across so that the San Diego inspector would know him in case he saw him with the Chinese and would not arrest them. He said that he had written for the photographs of the four Chinese that were to come over, and he was expecting to hear from them at any time, and as soon as he heard from them he would let me know. Mr. Giddings is the man in whose house I was living in at Bakersfield at the time, and during this conversation I had with Sam Yick at his store, Mr. Giddings was right across the street from the store, he walked from his house down to the store with me.

Q. (By Mr. STONE.) What are Mr. Giddings' initials, if you know?

A. William something. I don't remember the other initial. I couldn't tell now. * * *

(Testimony of Edward P. Morse.)

Q. (By the COURT.) Who is he?

A. He is the man with whom I roomed at the time, and I took him along for a corroborating witness to the fact that I was there at the store.

Mr. DOCKWEILER.—Now, we move to strike out the statement of the witness to the effect that he took Giddings along as a corroborating witness on the ground that it is a voluntary statement by the witness, made by him at this time for the purpose of strengthening and building up the credibility of his [60] testimony. It was not in answer to any question propounded to the witness.

The COURT.—If there is any harm done I am rather inclined to think the occupant of the bench is absolutely not cognizant of it. I asked him who was this man Giddings, and he was explaining, in answer, Mr. Giddings' relation to the case. But you are entitled to your exception nevertheless. Now, what is the motion?

Mr. DOCKWEILER.—Our motion was to strike it out on the ground that it was not—

The COURT.—I think it is an entirely proper matter to be brought out before the jury as to who Giddings was.

Mr. DOCKWEILER.—There is no doubt that your Honor had a right to ask him who Mr. Giddings was, and it was quite proper for him to reply, "Yes, he was my room mate."

Mr. STONE.—He was not his room mate; he roomed at this man's house.

Mr. DOCKWEILER.—Well, describing who he

(Testimony of Edward P. Morse.)

was, identifying him. But he supplemented that by—

The COURT.—Giving his relation to the case, and that is really the information I wanted, and I assumed it had gone into the record already; but I want to give counsel opportunity to make up their record in this matter, and it might be as well to strike it out and give them an opportunity to object to it before it is stated. The motion will be granted.

Q. (By Mr. STONE.) Do you know why Mr. Giddings happened to be there that night?

A. Yes, sir.

Q. Why?

A. He went along at my request to act as a corroborative witness—

Mr. DOCKWEILER.—Now,—

The COURT.—Now, one minute. [61]

Mr. DOCKWEILER.—May I ask the Court to instruct the witness to kindly pay attention to the questions, and to answer them directly?

Mr. STONE.—I asked, do you know why he went? And he said, “Yes,” and I said, “Why?”

Mr. DOCKWEILER.—Will the reporter repeat the question? (Last question read.)

Mr. DOCKWEILER.—We object to it as incompetent, irrelevant and immaterial.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception.

Mr. STONE.—I will stipulate that the objection may go before the answer.

(Testimony of Edward P. Morse.)

The COURT.—The motion to strike out, if there was one, is denied.

(Witness continuing.) I did not leave the store that night until about 10:15; there were some other Chinese in the store but the room in which we had our conversation was in the rear of the store and these Chinese were in the room in front and Sam Yick took me back to his private room in the rear of the store.

Q. Then when did you next see him?

A. Well, I couldn't give you the exact date. I saw him around town several times after that when he would ask me if there was anything particularly new and I told him No, until I went on my vacation, which was about the first of July that year."

(Witness continuing.) The next time I saw Sam Yick, it was just before I went on my vacation, and I told him that if he wanted to write me at any time while I was away, to write to me care of Immigration Office, Los Angeles. While I was away on my vacation at Ocean Park, California, I received a [62] letter from Sam Yick, which he afterwards said he had written himself. (The letter in question was here introduced in evidence as United States Exhibit No. 2. It was read to the jury by Mr. Stone and is as follows:)

[United States Exhibit No. 2—Letter Dated Bakersfield, August 4, 1911, Sam Yick Kim Kee to Edward P. Morse.]

Bakersfield, Cal., August 4, 1911.

Dear sir:

Mr. Edward P. Morse.

I am glad to see you. How you are getting along. I would like to ask you when your coming to Bakersfield. When you come back I like to visit to your. Please return the mail.

Yours truly,

SAM YICK.

KIM KEE. [63]

(Stamped with rubber stamp:)

Sam Yick Kim Kee Co.

Merchandise & Groceries

Wholesale and retail

Phone Main 1137, P. O. Box 363

723 18th Street.

Bakersfield, Cal. U. S. A.

Chinese characters.

Chinese characters.

(Witness continuing.) The next time I saw the defendant, Sam Yick, was August the 10th. I went to his store again on the evening of that day with Mr. Giddings. Mr. Giddings remained outside the store, and Sam Yick and I went into the back room of the store.

Q. Did you have a conference with Sam Yick there? A. I did.

Q. Go ahead and state the conversation fully.

A. He said he had heard from Ensenada two or

(Testimony of Edward P. Morse.)

three times since I had seen him; that he had received the photographs of four Chinese who he said were ready to come just as soon as they could get the papers prepared for them and he wanted me to—he asked me if I had seen the inspector at San Diego and if I had made arrangements for his co-operation—the inspector who inspected the trains there—and made arrangements for his co-operation to pass the Chinese when they were brought to San Diego. And at that time he told me who was going to be the guide, who would go down after them. He said that Jung Kim would. Jung Kim was his partner in the store there, and I was acquainted with him. And he showed me the photographs of these four Chinese and told me to prepare the papers as soon as possible. I told him I didn't think it would hardly—that I couldn't prepare the papers right here, that arrangements were not made, and that if they expected to bring their Chinese up right away they could bring them up and I would see to preparing the papers later on. He said they would have to have some means of identification. And in talking it over it was decided that the photographs would be used as a means of identification and that [64] the names of these Chinese would be written on the photographs. But he said before he went any further he would have to talk with another man and see whether or not they would want to bring them in before they had their papers, and he said to come and see him a couple of nights after that and he would know whether he wanted to go in on that

(Testimony of Edward P. Morse.)

proposition or wait until the papers were prepared.

The next time I saw Sam Yick was at his store on the evening of August the 12th I went there alone. Sam Yick said that he had seen the other Chinaman that was interested and that it was all right to go ahead with the photographs alone and prepare papers later on, but that the papers would surely have to be prepared some time, the sooner the better; He said that Jung Kim was going to Tia Juana for the Chinese and would bring them up to San Diego to stay for a day or two with a friend of his, to wash and change their clothes and look Americanized so that they would not be noticed on the train. Just as I was leaving the store that night, Sam Yick told me that it would be decidedly unhealthy for me if I ever started to give any information on him. He said that means had been taken to fix me in case I did give any information and that if he couldn't get me he could get some of my family. He went on to state that he knew just how many there were in my family and who they were and where I lived at Kern, and also where I had been in Ocean Park.

Q. (By Mr. STONE.) And did he give this information correctly?

A. Yes, sir, he did. [65]

(Witness continuing.) At this conversation on August 12th Sam Yick also asked me to make arrangements to have the inspector from San Diego come to Bakersfield to make final arrangements for bringing the Chinese over. Afterwards on the 24th of August, Mr. A. G. Bernard, the inspector at San

(Testimony of Edward P. Morse.)

Diego came to Bakersfield. After his arrival, at 8 o'clock in the evening of August 24th, Mr. Bernard and I went to Sam Yick's store; at first only Bernard, Sam Yick and myself were present and all that was said at first was to introduce Bernard to Sam Yick. Very shortly afterwards the defendant Jung Kim came in. Thereupon Sam Yick introduced Mr. Bernard to Jung Kim and told Mr. Bernard that Jung Kim was the man he was going to send down and he pointed out to him that one way of recognizing Jung Kim again was by reason of the fact that he had a double thumb on his right hand. Sam Yick then went on to say that if ever it was necessary to send a message about the Chinese they would [66] be referred to as so many pieces of goods; he also questioned Mr. Bernard about the number of immigration officers in San Diego and how they did the inspection of trains and how many inspectors there were between San Diego and Bakersfield. He also questioned Mr. Bernard in reference to where the soldiers were located at Tia Juana and below, between there and Ensenada and asked if things were calm enough down there so that the Chinese could be brought through. He also inquired of Bernard the best way to bring in the Chinese; and if it was likely that any of the other inspectors would be around at the wrong time and arrest the Chinese, and in case of this happening if he (Bernard) would be able to get them out. He told Bernard that all arrangements were made with me and that I would pay Bernard and whatever he got he would get through me. At

(Testimony of Edward P. Morse.)

this conversation also, and while Mr. Bernard was there, Sam Yick stated that he didn't want to send photographs as a means of identification as they were likely to get broken and that it would be better to furnish some kind of an identification card to show who the Chinese were instead of a photograph, and he said that he would write the names of the Chinese on a slip of paper in Chinese characters and would have me write the names on the slips in English to show Mr. Bernard who they were; these slips were to be furnished in duplicate, the originals to be sent to Ensenada to the Chinese and the duplicates to be sent to Inspector Bernard to be compared with the originals when the Chinese came over. Sam Yick said these slips would be brought to me at my house the next night. On the night of August 25th Sam Yick and Jung Kim came to my house. I was then rooming in Kern on Baker Street what is now East Bakersfield, at Mr. Giddings house. Before they came I had raised the window of my room about six inches and placed Mr. Giddings outside. It was probably about [67] eight o'clock in the evening when Sam Yick and Jung Kim came. They told me that they had written four cards in Chinese characters, and said that the names of the Chinese were Dock Yook, See Chew, Wah Sung and Ah Sing. I took each piece of paper as they named them, and above the Chinese characters I wrote these same names in English and put my initials underneath the Chinese characters; they only had the original slips and these I returned to them after writing on them

(Testimony of Edward P. Morse.)

the names in English and my initials.

Q. (By Mr. STONE.) Could you read Chinese at that time or at any other time? A. No, sir.

Q. And couldn't write it? A. No, sir.

Q. Examine these and see if these are the slips you refer to.

A. Yes, sir, those are the four same slips they brought to me that evening.

Q. Do you know who wrote the English on each one? A. Yes, sir, I wrote that myself.

Q. And who handed you the slips?

A. Sam Yick gave them to me.

Q. The Chinese had already been written on them?

A. Yes, sir; that was written when they offered them to me. They read the names and told me what they were and I wrote the name as it sounded in English.

(Slips offered in evidence as United States Exhibit No. 3 shown to the jury, four in number and are as follows:)

[United States Exhibit No. 3—Memoranda Slips.]

(a) "Wah Sung

(Chinese characters)

E. P. M."

(Endorsed) "B. M.

Sep. 15" [68]

(b) "Dock Yook

(Chinese Characters)

E. P. M."

(Endorsed) "B. M.

Sep. 15"

(Testimony of Edward P. Morse.)

- (c) "See Chew
(Chinese Characters)
E. P. M."
(Endorsed) "B. M.
Sep. 15"

(d) Ah Sing

<p>A. G. B. Received from Chung Kim At 5 P. M. Sept. 12/11.</p>	<p>(Chinese characters) E. P. M."</p>	<p>He stated that this Chinese had already crossed likely via Calex- ico.</p>
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(Witness continuing.) Subsequently on August the 28th the defendant, Jung Kim, met me at the Santa Fe Station in Bakersfield and gave me the duplicates of these original slips which I marked and initialed in the same way as the originals. Jung Kim said that the slips were to be given Bernard at San Diego to identify the four Chinese.

(Duplicate slips shown to the jury and filed as United States Exhibit No. 4, being four in number as follows:)

[United States Exhibit No. 4—Memoranda Slips.]

- (a) "Dock Yook
(Chinese Characters)
E. P. M."
(Endorsed) 'Duplicate'
- (b) "See Chew
(Chinese characters)
E. P. M."
(Endorsed) 'Duplicate'
- (c) "Wah Sung
(Chinese characters)
E. P. M."
(Endorsed) 'duplicate'

(Testimony of Edward P. Morse.)

(d) "Ah Sing

(Chinese characters)

E. P. M."

(Endorsed) 'duplicate' [69]

At that meeting at the Santa Fe Station on August the 28th, I asked Jung Kim when he expected to go. He said just as soon as he got another letter saying things were ready, he would go down to Tia Juana, and he would keep the Chinese at the Hop Wo Lung Company, 933 Second Street, San Diego.

The next time I saw Sam Yick and Jung Kim, was on the 4th of September; they came to my house about eight o'clock in the evening of that day. Mr. Giddings was outside listening at the window. They said they had received a letter from Ensenada saying that the Chinese were ready to come and would be at Tia Juana in about a week, that they thought things were quiet down there and that they could get through without any trouble with the soldiers and asking them to send Jung Kim down to San Diego and when he got there to have him call up Tia Juana on the telephone and find out when the Chinamen would arrive. Jung Kim then stated that he expected to leave on September the 7th. The next day I saw Sam Yick on the street. He told me that Jung Kim would go on the 8th on the noon train instead of the 7th. On the 8th I was at the Southern Pacific Depot and saw Jung Kim buy a ticket and take the train south. I saw his ticket, it read San Diego.

(Testimony of Edward P. Morse.)

I next saw Sam Yick on September the 16th. He came to my house on the afternoon of that day about three o'clock. He asked me if I had heard anything from Jung Kim. I told him I had not, and he then produced a telegram which he said he had just received from Jung Kim, which he wanted me to read, and asked me if I understood it; he handed me the telegram and I read it, the first part of it was in Chinese words, there were about eight or nine Chinese words, and then in English: "I come back to-morrow. [70] Signed "Jung Chong." Sam Yick said that those names meant the same in Chinese as See Chew, Dock Yook and Wah Sung, and meant that they had been arrested, he said it meant that the officers had arrested those three men, he wanted to know what I thought of it or what was going on, and I told him I didn't know anything about it, that that was news to me and the first intimation I had had of anything of the sort. Sam Yick said he would be at the postoffice about one o'clock in the afternoon of the next day Sunday, and for me to meet him there and see if either of us had received any additional word at that time. I met him the following day at the postoffice and neither one of us had heard anything further.

On the 19th of September Sam Yick came to my house and told me that he had received a letter from Jung Kim saying that the Chinese had been arrested in San Diego and were held there by the police, and he asked me to write to inspector Bernard to use his influence to get the Chinamen out of jail and either

(Testimony of Edward P. Morse.)

send them back to Mexico or hold them until Jung Kim could be sent down there; he told me to tell inspector Bernard to use a little piece of money if it would do any good.

On September the 20th I met Jung Kim at the Southern Pacific Depot at Bakersfield. I saw him as he got off the train, I asked him what the trouble was and he said he had been down to Tia Juana and had got the Chinese, but that as he was coming up along the railroad track at night, the Chinese got frightened and ran away, that he had lost them, and the next day they had wandered in to San Diego and had been arrested by the police there and were being held by them.

On the evening of September the 20th Sam Yick and Jung Kim came to my house and asked me to send a telegram to Bernard and find out if the Chinamen were to get loose. They said they had heard from San Diego, that the Chinese would be tried in the [71] lower court that day, and would be tried in the Superior Court the following day, that then they would be released and returned to Mexico; that these Chinese were to say that they kept a store in Tia Juana and that the Mexican soldiers came in there shooting their guns and disturbing the peace generally so that they ran out of the store and ran all the way to San Diego and didn't know where they were. I asked Sam Yick if he still wanted Bernard to use any money and he said no, that they were going to get loose any way, and as soon as they did, Jung Kim would go down again and bring them up,

(Testimony of Edward P. Morse.)

as it was originally arranged.

The next conversation I had with Sam Yick was on September the 26th. He came to my house in the afternoon alone and told me that he had heard from his friend that the Chinese had been ordered deported to China by the immigration authority and he wanted me to do everything I could to get them sent to Mexico instead, as their deportation to China would have a bad effect on the other Chinese there, might break up the whole proposition, and he said that he would lose a lot of money by it if they went to China. He said that if they were deported to Mexico they would try to come again, and it would not scare back the rest of the Chinese that were considering coming. He said he had gotten two letters from Ensenada from Chinese that were anxious to come over, but he knew that if these three men were deported to China they wouldn't come; it would break up the whole thing; and he said these Chinese in Ensenada had written that they didn't have the money to put up themselves, but that they had written him the names of some Chinese firms both in San Francisco and Fresno who would guarantee the money to Sam Yick; that if he would put up the money for them these other companies would put up a bond to guarantee Sam Yick's money returned to him—that he would get the money back again; and he said he was going to leave for San Francisco the following day to see [72] these people and see what arrangements could be made about a bond to secure him for any Chinese that came up, and he

(Testimony of Edward P. Morse.)

would send money over to me by Jung Kim the next day and I was to send Bernard twenty-five dollars for each of the Chinamen in San Diego to bribe the jail officials there to let them go. He said there was approximately two hundred Chinese in Mexico that were willing to come to the United States, and that I could make twelve or fifteen thousand dollars a year by allowing them to come in, and that I would lose that and he would lose a lot of money too.

About 2:30 o'clock in the afternoon of September the 27th, 1911, Jung Kim came over to my room. At that time I stationed Mr. W. J. Weems in the closet of my room and took off the lock so that he could see through the hole where the door knob goes through and left the door about a fraction of an inch open so that he could hear the conversation. Jung Kim came in and said that Sam Yick had gone to San Francisco to see these men whose names had been furnished him in these letters from Ensenada, and that he had sent over the money by them, that he had got only twenty dollars apiece instead of twenty-five and Jung Kim handed over the money to me, three twenty dollars gold pieces, one was dated 1901, the other 1904, the other 1905. I wrote a receipt on the typewriter and made a carbon copy of it. The money was to be sent to Inspector Bernard with instructions to give it to any of the jail officials who were in a position to release the three Chinamen in jail there.

(Witness here produces three twenty dollar gold pieces.)

When Jung Kim gave me this money I placed it on

(Testimony of Edward P. Morse.)

a table in plain sight where Mr. Weems could see it. As soon as Jung Kim left I took the money and marked it with a triangle right under the neck of the Goddess of Liberty, between that and the date. Mr. Weems marked them with a different mark on the [73] reverse side. The mark is still visible there and Mr. Weems witnessed the receipt that I gave for the money after Jung Kim had gone.

(Witness examining paper.) Yes, this is the carbon copy of the receipt. I signed it while it was between the papers.

(Copy of receipt received in evidence as United States Exhibit No. 5 and read to the jury and is as follows:)

**[United States Exhibit No. 5—Receipt Dated
Bakersfield, September 27, 1911, E. P. Morse to
Sam Yick.]**

DEPARTMENT OF COMMERCE AND LABOR.

Bakersfield, Cal., Sept. 27, 1911.

Received from Sam Yick, \$60.00, this money to be sent to Inspector Bernard at San Diego, Cal., for the purpose of obtaining the release of the three Chinese now under arrest there and for their return to Mexico, or if this is not possible, it is understood that the money is to be returned to Sam Yick. This money was delivered by Chang Kim.

E. P. MORSE.

W. J. WEEMS,

Witness.

(Testimony of Edward P. Morse.)

(Stamped across top of paper with rubber stamp as follows:)

“U. S. Immigration Service,
Commerce and Labor.
Received
Sept. 28, 1911.
Port of Los Angeles.”

Three twenty dollar gold pieces filed in evidence as United States Exhibit No. 6 and shown to the jury.

(Witness continuing.) Jung Kim said that Sam Yick had sent the money over for the purpose of releasing the three Chinamen from jail. I asked him if these were the three Chinamen that he had brought over, and he said yes.

A few days later, about the thirtieth of September, I saw Sam Yick. He told me that he had been to San Francisco and that the men in San Francisco were afraid to go in with him under the present conditions, that if the three Chinese in jail were released and sent to Mexico or brought to Bakersfield, they would finance them to any extent, but if the Chinese were sent to China, he (Sam Yick) was afraid that they would be too suspicious to put up any financial backing, Sam Yick said that [74] if we could get these Chinese out and bring them to Bakersfield everything would be all right. That he could get any number of Chinese to come. He said there was lots of them there, that he thought he could bring a batch of five or six every week, that he would get them as fast as he could bring them, that he was going to have Jung Kim go to San Diego and bring

(Testimony of Edward P. Morse.)

them up [75] to Los Angeles to put them on the right train there and wire him to meet the train when it got to Bakersfield, so that Jung Kim could return immediately to San Diego and get another batch. He asked me if I hadn't fixed up the papers yet, and he said he wanted most of the Chinamen to remain in Bakersfield, that I knew they were all right and they wouldn't be troubled there. He asked me to see if I couldn't do anything to see that these Chinamen were released and were not sent to China.

About a week later I saw Sam Yick again. He told me the Chinese had not been released and that he understood they were going to China, and asked me if Inspector Bernard had done anything with the money. After that I saw him off, and on every few days, when I saw him he would ask me what I had heard or what Bernard had heard or what action was being taken about these Chinamen, and I told him that it had been arranged through the efforts of myself and Inspector Bernard to have them remain there and that eventually they would be gotten out, but that we kept them from being deported, and that he would have to give us time to get them out of jail. One day after that I met Sam Yick and Jung Kim on the street, and Sam Yick asked me about the most economical way to travel, asked me if Jung Kim would not save money by buying a scrip or mileage book, that he was going to be on the road back and forth all the time.

The next conversation I had with Sam Yick was

(Testimony of Edward P. Morse.)

just before his arrest. He told me to let him know immediately if there was any chance of these Chinamen being released at any certain time so that he could send Jung Kim down after them.

Cross-examination by Mr. DOCKWEILER.

I am thirty-four years old, have lived in California about three years and a half. Before entering the Government service I was reporter for Bradstreets Mercantile Agency in Philadelphia. [76] I joined the Government service as a Chinese inspector February the 28th, 1910, and I have been an immigrant inspector for the Government service about three years and have been working in California about three years and a half. I went to Bakersfield about the first of January, 1911, my duties there in Bakersfield were to inspect trains and arrest Chinese that would pass through without papers and to make investigations generally of Chinese around Bakersfield to see that they were entitled to be and remain in this country. There was no other inspector located at Bakersfield while I was there for the first six months of 1911. I left Bakersfield about the latter part of April, 1912.

I first became acquainted with Sam Yick, the defendant, about a month after I went to Bakersfield, I got acquainted with him in the course of my general investigations. He never called at my office or sought my acquaintance. At the time I went there Sam Yick was one of the most prominent merchants in new China Town, Bakersfield. I called on Sam

(Testimony of Edward P. Morse.)

Yick possibly a dozen or fifteen times in connection with Chinese immigration matters before any mention was made of smuggling contraband Chinese, and he knew that I was an immigration official. On some of these occasions I took Chinese to Sam Yick's store to examine their papers, some of the Chinese kept their papers there, at other times I went there looking for Chinese supposed to be around town to find out where they were located; and in one or two instances Sam Yick acted as interpreter for me in Chinese investigations; when he acted as interpreter for me it was at the request of the Chinese and I consented because I considered it was the best I could do. I would go to the fields and ranches near Bakersfield and whenever I found a young Chinaman that I suspected of being a contraband I took him to wherever he said his papers were, if any Chinaman didn't have their papers I would take them away from their work and make them accompany me to town or wherever they [77] said their papers were to show them to me. The only occasion on which any discussion or controversy arose between myself and Sam Yick regarding Chinese, was one occasion when a number of Chinese were leaving Bakersfield to go to Wasco, about twelve or fifteen Chinese came to the Santa Fe Station and none of them had any papers with the exception of one or two, they said they were going out of Bakersfield to work at this garden at Wasco, and Sam Yick had bought the tickets at the depot and put them on the train. The greater part

(Testimony of Edward P. Morse.)

of these Chinese said that their papers were in Sam Yick's store. At first I would not agree to let them go without showing their papers, but eventually after having seen their tickets, and when Sam Yick told me their papers were with him, I allowed them to go. I afterwards went to Sam Yick's store and saw the papers there. At the time I let these Chinese go I took Sam Yick's word in conjunction with the others and circumstances in general that all these Chinese were entitled to remain in the country. About a week later I investigated the matter further and on going to Wasco found perhaps seven or eight of these Chinamen working in a garden there. I examined their certificates and they were all right, the rest of the Chinamen had gone away. I don't remember any party of forty Chinamen or any considerable number coming to Bakersfield about which a dispute arose between myself and Sam Yick at any time. I do remember one occasion when I took some Chinese to Sam Yick's store, and when they produced their papers there I took up one of the papers and sent it to Los Angeles which didn't meet with the approbation of those in the store, I don't remember whether Sam Yick protested particularly against that. My impression is that this occurred in the spring of 1911.

I went to Sam Yick's store quite a number of times before anything was mentioned about getting in contraband Chinese from Mexico or elsewhere, but I was never particularly friendly with [78] Sam Yick, I found out who Sam Yick's wife was

(Testimony of Edward P. Morse.)

but I don't remember whether he ever introduced her to me, I never developed any familiarity in a social way with Sam Yick, but when I went to his store I went there on business matters and treated him with business courtesy in a business way; I never attempted to gain Sam Yick's confidence before mention was made of smuggling Chinese. Sam Yick impressed me as a man of ordinarily good intelligence, with a good knowledge of English, he was known locally as King of new China Town and I probably referred to him in that way in my official correspondence.

I had known Sam Yick probably four or five months before the question of smuggling Chinese in from Mexico was mentioned. He was the first person to talk to me on the subject and he suggested the matter to me. At the time I entered the Government service February the 28th, 1910, I took an oath of office and swore to support the constitution of the United States and uphold its laws and to demean myself properly as an immigration officer. At the time Sam Yick first suggested the matter of smuggling Chinese to me I was surprised but I showed no resentment and made no objection to the suggestion.

Q. (By Mr. DOCKWEILER.) * * * Now, when he mentioned the subject of your making some money on the side by violating the law by way of inducing Chinamen to come into the United States or permit them to illegally remain in, you apparently indulged in no resentment, did you?

(Testimony of Edward P. Morse.)

A. No, sir.

Q. Well, you made no objection to the suggestion?

A. No, sir.

Q. On the contrary at that conversation and at all subsequent conversations with Sam Yick that occurred according to your testimony, you encouraged him, did you not?

A. I don't say that I encouraged him, no. [79]

Q. Well, you assisted him?

A. I agreed to go in with him.

Q. You agreed to go in with him?

A. Why, I agreed to the proposition as made by him, I should say * * *

Q. (By Mr. DOCKWEILER.) Then did you make the suggestion to Sam Yick of using certain slips, the four slips that have been introduced in evidence here?

A. I did, after he decided not to use the photographs for identification purposes. It was his idea originally to use photographs for identification purposes.

Q. Who prepared the slips?

A. I don't know who prepared them. Sam Yick brought them to my house.

I introduced Bernard, the inspector at San Diego, to Sam Yick, that was on August the 24th, 1911. Sam Yick took us to a back room in his store. He asked me if that was the inspector from San Diego that was going to co-operate with us. I said, yes, and he then called in Jung Kim and introduced Jung Kim to Inspector Bernard as the man who was to

(Testimony of Edward P. Morse.)

act as guide for any contraband Chinese brought in. I don't remember anything being said at that time about the fact that Jung Kim had never before in his life been in San Diego or the country adjacent thereto, and I never found out later that this was a fact. I had known Jung Kim prior to my meeting him on this occasion. I knew him as one of the partners in Sam Yick's store. At this meeting on August the 24th, 1911, between Bernard, Sam Yick, Jung Kim and myself, it was arranged that Jung Kim was to go to San Diego as soon as he got word that the Chinese would leave Ensenada for Tia Juana, and he was to remain in San Diego until he got in touch with the Chinese in Tia Juana over the telephone and found out when they would be ready to come, then Jung Kim was to go to Tia Juana and [80] get the Chinese and bring them over to San Diego and leave them at the store of Hop Woo Lung there at 339 Second Street there. The Chinese were to remain there several days to get rested and cleaned up, and then Jung Kim was to take them on the train and bring them to Bakersfield. At that conversation Jung Kim asked Bernard what his telephone number was and he and Sam Yick made a note of this telephone number, and asked if it would be advisable to call him (Bernard) at the immigration office, and Jung Kim said that he would let him know shortly after he reached San Diego. I am positive that no suggestion was made by Bernard or myself about the matter of the telephone number, or Jung Kim reporting to Bernard on ar-

(Testimony of Edward P. Morse.)

rival in San Diego. I don't think that Jung Kim was told by any one that there was a telephone between San Diego and Tia Juana. The plan of telephoning was suggested either by Jung Kim or Sam Yick, I am not certain which. I am certain I didn't suggest it, and to the best of my recollection Inspector Bernard didn't. Sam Yick then asked Bernard which was the best way of getting from San Diego to Tia Juana, down the railroad or down the traveled road, and Inspector Bernard told him that the railroad was shorter, would probably make it quicker but would be rougher traveling; Sam Yick then asked Bernard how many soldiers there were in Tia Juana and how many officers there were in the custom house there and Bernard informed him that there were not as many as there had been. Sam Yick also asked Bernard which was the best road from Ensenada to Tia Juana or from Tia Juana to San Diego, and Bernard told him that it was immaterial, that all the roads led to San Diego.

No suggestion or arrangement was made at this conference of August 24th, 1911, that as soon as Jung Kim arrived in San Diego, Bernard was to take him or have some other person take him and show him the boundary line, and no suggestion was made that upon Jung Kim's arrival in San Diego, he was to be taken over [81] the territory and shown how the Chinamen could be gotten over. It was arranged, however, that Jung Kim would call up Bernard and let him know that he was in town, but otherwise no inference drawn from any conversa-

(Testimony of Edward P. Morse.)

tion at that time that Bernard was to go, with Jung Kim to show him where to go by what route or anything of that sort, but Jung Kim indicated at this conference that he would be able to take care of himself when he got down to San Diego, that he would go and get a room and stay there, and that he knew the railroad went to Tia Juana and that he could go down on the railroad. I suggested to Sam Yick in the first instance that Bernard should come to Bakersfield and meet Jung Kim. I made the suggestion because Sam Yick asked me if I could get another inspector to go in with him.

On September the 8th, 1911, the day Jung Kim left Bakersfield, I was present at the depot for the purpose of inspecting the northbound train and also of seeing Jung Kim off on the southbound train; I was in the station when Jung Kim bought his ticket, but I didn't help him buy it, I asked him if he had his ticket, he brought it out and showed it to me, if Sam Yick was at the station at that time I didn't see him. The next time I heard from Jung Kim after his departure from Bakersfield on the 8th of September, was on the 20th of September, when he came back to Bakersfield; between September the 8th and September the 20th, I saw Sam Yick two or three times. I didn't know of my own personal knowledge who wrote the telegram that was sent by Jung Kim from San Diego to Sam Yick, I remember seeing Jung Kim write a telephone number down that Mr. Bernard gave to him, but I don't know and cannot state positively whether or not Jung Kim

(Testimony of Edward P. Morse.)

can write the English language or any number of words in it.

When I saw Jung Kim upon his return to Bakersfield I asked him what kind of an experience he had had on the trip. He told [82] me that he had gone to Tia Juana, had got the three Chinese and had walked across the line on the railroad with the Chinese following him, that he had proceeded up the railroad for some distance until he missed the Chinese and on going back to look for them he could not find them, that these Chinese had been hunted for all that night but they were unable to find them, that then he went back to San Diego; that the Chinese had been arrested by the police in San Diego and were held by them and were in jail in San Diego at that time, that he had been informed by friends that the probability was that they would get out of jail after a short time and be returned to Mexico, and he supposed if that was the case that Sam Yick would want him to go down again and try to bring them to Bakersfield as was originally intended; I remarked to Jung Kim at that time that it was pretty tough luck to be gone down there that long and have a trip like that and not get anything out of it.

I don't know whether Sam Yick or Jung Kim ever left Bakersfield from the time of my first conversation with Sam Yick about smuggling Chinese until the return of Jung Kim from Bakersfield. I don't know if, when Sam Yick first suggested to me that I could make some money on the side by smuggling

(Testimony of Edward P. Morse.)

Chinese, I had told him he was doing wrong in asking me to join him in committing a crime whether or not Sam Yick would have persisted; I don't know whether or not if at that time I had told Sam Yick that his proposal was a violation of the law and that I couldn't participate in it and that he must not talk to me about it, whether he would have continued or not.

Q. (By Mr. DOCKWEILER.) Now, is it not a fact that from the very first conversation that you had with Sam Yick you encouraged him to pursue the proposition of bringing contraband Chinese into the country? A. No, sir, that is not a fact. [83]

Q. Is it not a fact that you aided him and made suggestions from time to time to him or to Jung Kim with a view of getting him to continue in developing the idea and proceeding on his, as you claim, proposed course of bringing Chinese into the country?

A. No, sir, I didn't aid him in any way.

I made suggestions but not with the purpose that you mention, the suggestions I made were for the purpose of being able to produce evidence later on of what I am testifying about, not to aid him in his work.

The original price suggested for the papers from Juarez was one hundred and fifty dollars for every Chinaman from Tia Juana the price was about two hundred and fifty dollars. The price was raised because Sam Yick spoke of having another inspector in on the proposition and that he would have to have

(Testimony of Edward P. Morse.)

his out of it. The matter of having another inspector in on the proposition was Sam Yick's suggestion in the first place. He asked me if I couldn't secure a confederate in San Diego. I told him I would see what I could do and subsequently told him that I could and introduced Bernard to him. During all of the course of my negotiations with Sam Yick I did nothing to encourage him in any way that I know of, though I never reproved him for anything that he said or proposed. I thought Sam Yick was suspicious, I don't think he placed unbounded confidence in me, if he had done so, he would hardly have made threats against my life in case I gave information regarding him. I have never been injured that I know of but an attempt was made to injure me, approximately a month after Sam Yick's arrest, I was shot at right in the vicinity of China Town. I went down into China Town immediately after that and visited China Town subsequently. I didn't know who shot at me, I didn't see the man, I did hear the whiz of the bullet. There was only one shot fired and that [84] was from behind. I turned around and fired a couple of shots myself. Shortly after I was shot at again in the same vicinity within a square and a half of China Town. I don't know who did the shooting. None of these shots ever took effect. There was no one with me on either of these occasions when I was shot at, and no member of my family has ever been injured since then; notwithstanding these two occasions on which I was shot at I continued to visit

(Testimony of Edward P. Morse.)

China Town. I was transferred from Bakersfield on the latter part of March or the first of April, 1912. Sam Yick was arrested there in October or November, 1911. He ceased talking to me about the case from the time he was arrested. The matter of getting a guide to bring the Chinese over was first suggested either at the meeting of May the 8th or May the 17th or August the 10th, I told Sam Yick that I would have nothing to do with bringing the Chinese across, he said that was not necessary, that he would send a guide down to attend to that part of it. The guide was to bring the Chinese across from Mexico, buy their tickets, and look out for them generally until such time as they reached Bakersfield, and Jung Kim's name was suggested as a guide. To the best of my recollection I have stated everything that occurred in connection with this case between myself and Sam Yick subsequent to August the 24th, 1911.

(It was here stipulated between counsel for the Government and counsel for the defendants, that witness, Edward P. Morse, might be recalled later on for further cross-examination on one matter.)

Redirect Examination by Mr. STONE.

One inducement Sam Yick offered me to go into this proposition was that the money would be made by some one, that I might as well get it, that if I didn't take the two hundred and fifty dollars for these Chinese that were brought in, some one else would get it, and I might as well have it as [85] someone else.

As immigration inspector at Bakersfield I was

(Testimony of Edward P. Morse.)

both required to and did keep a record of Chinese that I inspected at the trains. I have that record with me. It does not show any record of forty Chinese arriving on or about or near April the 1st, 1911.

Q. After May 8th what did you do after this first conversation with Sam Yick, what was your next step, that is on the 9th and 10th with reference to this matter?

A. On the morning of the 9th I proceeded to Los Angeles.

Q. And where did you go?

Q. (By Mr. DOCKWEILER.) Was the defendant present? Were any of the defendants present?

A. No, sir.

Q. At the point to which you repaired?

A. Not to my knowledge.

Mr. DOCKWEILER.—Then we object to the statement by this witness of anything that he said or did in the absence of either of the defendants or of the defendants.

(Here discussion was had between Court and counsel as to the admissibility of this line of testimony.)

Mr. DOCKWEILER.—And we object to the question further on the ground that it is incompetent, irrelevant and immaterial.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception.

A. On the following morning of the 10th I reported at the immigration office in Los Angeles.

(Testimony of Edward P. Morse.)

Q. (By Mr. STONE.) Who did you report to?

A. The inspector in charge, Mr. Connell.

Q. On the morning of what?

A. On the morning of the 10th of May, 1911.

Q. And did you receive any instructions from him?

Mr. DOCKWEILER.—Same objection. [86]

The COURT.—Same ruling.

Mr. DOCKWEILER.—Exception.

A. I did, I talked over the whole proposition with him and we went into the matter quite thoroughly. I received instructions to apparently entertain any proposition that came along and report matters immediately; to take the initiative in no instance, but to act in a receptive mood and entertain anything that was put up to me.

Mr. DOCKWEILER.—Is your answer finished?

The WITNESS.—Yes.

Mr. DOCKWEILER.—Now, I move to strike out the answer of the witness, your Honor, on the ground that it is incompetent, irrelevant and immaterial; that the statement he has just made was made by somebody else, this Mr. Connell, to this witness, and by this witness to Mr. Connell in the absence and without the hearing of the defendants and each of them.

The COURT.—The motion is denied.

Mr. DOCKWEILER.—Exception.

Q. (By Mr. STONE.) On the 10th when you had a conference with Mr. Connell was there anything said to you by Mr. Connell in regard to putting in

(Testimony of Edward P. Morse.)

writing your report?

Mr. DOCKWEILER.—Same objection.

The COURT.—Same ruling.

Mr. DOCKWEILER.—Exception.

A. Yes, sir, I was told to make a full report of the matter and turn it in to him.

Q. Did you make that report on that date?

A. I did.

Mr. DOCKWEILER.—Same objection.

The COURT.—Same ruling.

Mr. DOCKWEILER.—Same exception.

A. I might further state at that time that Mr. Connell [87] informed me that later on I would very likely receive further instructions in the matter as the plan proceeded—developed.

Mr. DOCKWEILER.—We move to strike that answer out.

The COURT.—Motion denied. We might have an objection to this line of testimony.

Mr. DOCKWEILER.—It is understood—

Mr. STONE.—Yes, it is stipulated.

Mr. DOCKWEILER.—That the defendants and each of them has an exception to all this line of testimony.

The COURT.—Yes.

Mr. DOCKWEILER.—Based on the grounds already urged.

(Witness continuing.) There had been no inspector stationed at Bakersfield prior to my going there. It was Sam Yick who suggested the guide, Jung Kim, to bring the Chinese over. With reference to

(Testimony of Edward P. Morse.)

the telegram that Sam Yick showed me in Bakersfield, I wrote a copy from memory after Sam Yick had left me. I have that copy; the first eight or ten words of the telegram were written in Chinese followed by the words: "I come back tomorrow" signed "Jang Chong."

Q. (By Mr. STONE.) (Showing witness paper.) I wish you would examine that and state whether or not to your best recollection that is a copy of the same words?

A. That is identically the same telegram he showed me, the wording.

Q. Mr. Morse do you know who suggested Mr. Bernard to come over to Bakersfield?

A. I do.

Q. Who was it?

A. Mr. Connell, inspector in charge at Los Angeles.

Q. And from the 10th of May on until all through this matter did you have correspondence with the inspector in charge here? [88]

A. I did.

Q. Did you report what was being done at all times?

Mr. DOCKWEILER.—Of course this is all under the stipulation?

Mr. STONE.—Yes.

A. I reported every action as it took place at the time or very shortly after, immediately, as soon as I could report everything that took place.

The COURT.—You mean by everything that took

(Testimony of Edward P. Morse.)

place the matters to which you testified on the stand here? A. Yes, sir.

Q. (By Mr. STONE.) And have you examined this file of letters which was in Mr. Connell's possession in making those reports? A. I have.

Q. And are these the letters you wrote and that show to be signed by you?

A. All these signed by me are written by me.

(Here the telegram shows the witness was produced by Mr. Stone and marked Government's Exhibit No. 7, for identification.)

Recross-examination.

(By Mr. DOCKWEILER.)

Q. Now, Mr. Morse, did you or did you not on May the 18th, 1911, in a letter transmitted by you to the inspector in charge of the immigration service at Los Angeles, California, make use of and write the following?

(Mr. DOCKWEILER (Reading to witness.) "I told him (him referring to Sam Yick) I thought it would be a good idea [89] to have the inspector in San Diego who is to pass the Chinese there, come to Bakersfield and meet the man from here who is to act as guide, so that they would know each other, etcetera, to which he agreed."

A. Yes, sir. I think I wrote that.

(Witness continuing.) I wrote that because it was suggested by Sam Yick that I go to San Diego to talk to the inspector there. I made the suggestion that he come to Bakersfield instead. I don't know whether or not I ever reported this suggestion of

(Testimony of Edward P. Morse.)

Sam Yick's to Mr. Connell.

Q. Well, from this statement that I have just read it is evident therefrom that you were the man, is it not, who suggested that the San Diego inspector come up there?

A. Yes, sir, I made the suggestion that he come to Bakersfield instead of my going to San Diego.

(Witness Continuing.) I couldn't be positive one way or the other whether I ever made a written report to Mr. Connell or any other superior officer respecting the suggestion made by Sam Yick that I should go down to San Diego and talk to the inspector there. I have all of the correspondence that I addressed to my superior officer, it is accessible to me and has been all through this trial, but I have not read it all over.

(Here the Court instructed the witness to devote whatever time was necessary to going over the correspondence so as to be able to answer the questions of the counsel.)

(Witness continuing.) I did make a suggestion to Sam Yick as to the methods to be pursued, and I made several suggestions of various kinds acting under the orders of my superior officer. I never made any suggestion to Sam Yick as to how to get the Chinamen across the line.

Q. Well, what other things do you remember now that you kind of helped him out on in order to develop the scheme? [90]

A. Well, one of them was to use the marked card or paper system instead of photographs; and he

(Testimony of Edward P. Morse.)

claimed that he did not want to let the photographs go as identification cards, to use marked cards instead. Another such thing was, he told me that when this money was to be paid to me, it would be paid sometimes at his store and sometimes he would come to my house and pay it, and acting under the instructions, I made the suggestion that he pay me at the S. P. Depot when this batch of three was brought up, pay the money there, so that it would not be necessary for me to go to Chinatown. In explanation of that I will say that would give the Chinese a chance to get away and we wouldn't be able to catch them possibly; also if he paid the money to me in Chinatown, in his store, there would be no possibility of my having any witness to that transaction; whereas, if he paid it at the S. P. Depot, there would be. Those are three suggestions that I remember.

Q. And any others?

A. That is all that I think of now.

Q. Did you also on May 18, 1911, write to the Immigration Inspector at Los Angeles the following: "I told him (referring to Sam Yick) we could arrange to have all the inspectors off the railroad, so that they could come through just the same (they referring to Chinamen) even if I could not get the papers now, outlining the marked card system as you suggested, and he thought that would be all right, and then they could put in an application for native born papers afterwards." Did you write that?

A. I did.

Q. Did you also at the same time write to the im-

(Testimony of Edward P. Morse.)

migration inspector at Los Angeles the following: "I would suggest that, if satisfactory to you, Inspector Keep be notified what is developing and that we both receive personal introduction from you together."— [91]

The WITNESS.—"Instructions."

Q. (By Mr. DOCKWEILER.) "Instructions from you together as there is considerable detail I would like to talk over."

A. I also wrote that.

Q. Did you also write this at the same time: "In any case, I would like to know at once who will be detailed on the case, at San Diego, as Sam Yick is liable at any time to ask the name of my assistant"?

A. I wrote that also.

(Witness continuing.) I don't think anything of importance in connection with any transaction I had with Sam Yick subsequent to August 24th, 1911, has slipped my mind.

Redirect Examination.

(By Mr. STONE.)

(Witness continuing.) I never got any money from defendants in this case except the \$60.00 that has been offered in evidence.

Q. And what were your purposes in making the suggestion that you said you did make, Mr. Morse?

A. In reference to which suggestion was that?

Q. Oh, that Mr. Dockweiler asked you about, that you said you made as indicated in the letter.

Mr. DOCKWEILER.—Well, now, we object to

(Testimony of Edward P. Morse.)

that as irrelevant, incompetent and immaterial, the purpose of it.

The COURT.—Objection overruled.

Q. What were your purposes in making these suggestions?

A. Well, one of my purposes was to follow out the instructions that I had.

Mr. DOCKWEILER.—The ruling of the court will be the same on that, and exception.

A. The purpose of having the marked cards was to have something to connect the Chinese in case they came with the deal [92] as proposed in Bakersfield; as I explained the suggestion about paying over the money was for the purpose of having a witness to the transaction.

Recross-examination.

(By Mr. DOCKWEILER.)

(Witness.) I never received any money from Sam Yick or anybody or Jung Kim or anybody else in connection with this case other than the sixty dollars I have testified to and which has been introduced in evidence here. If I had received any such money I most certainly would remember it.

Q. (By a Juror.) I would like the permission of the Court to ask the witness one question.

The COURT.—Very well.

The JUROR.—Did you read the receipt you gave to Jung Kim to him or did you give it to him?

A. No, sir, I read it to him out loud. Can I explain why?

(Testimony of Edward P. Morse.)

The COURT.—Yes.

Mr. STONE.—Yes.

A. The express purpose—

Mr. DOCKWEILER.—We object to the statement of the witness; it is incompetent, irrelevant and immaterial.

The COURT.—Objection overruled.

Mr. DOCKWEILER.—Exception.

A. I read it out loud to him for the express purpose of Mr. Weems who was in the closet, to hear what the receipt was, to be able to identify the duplicate which I wrote at the same time with a carbon paper on the typewriter.

Recross-examination by Mr. DOCKWEILER.

I prepared and wrote myself on the typewriter the receipt for sixty dollars that I gave Jung Kim and Jung Kim brought me sixty dollars and then I gave him the receipt. [93]

[Testimony of W. E. Giddings, for the Government.]

W. E. GIDDINGS, a witness called on behalf of the Government, having first been duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is William E. Giddings; I live at Bakersfield, California; I have lived there a little over three years; my business is that of a machinist. I have known Mr. E. P. Morse, the gentleman who has just left the witness-stand, about three years. I am not in any manner connected with the Government service. I know the defendant, Sam Yick, by sight, that

(Testimony of W. E. Giddings.)

is all. I am not so sure about the other defendant, Jung Kim, the peculiarity about his right hand is the only thing I remember of him. During the month of April and during the spring and the summer of 1911, Mr. Morse roomed at my house. I have seen Sam Yick and Mr. Morse together in Mr. Morse's room at my house. I made memorandums at the times I saw him there and I have it with me. The first time I saw them together was on May the 17th, at my house; I saw them through an open window with the shade up; it was in the evening; I could hear a few words that were said but I don't remember anything that was said then. I made a mistake in the date that I saw Sam Yick at the house; May the 17th was the time when I went to the store with Mr. Morse; August the 25th and September the 4th and 5th were the only times I saw him at the house. August the 25th was the first time he came to the house when I saw him, that was the time I saw him through the window.

On May the 17th I went to Eighteenth Street to Sam Yick's place of business, with Mr. Morse. I saw Mr. Morse go into Sam Yick's store, and I went to Nineteenth Street and waited for him. Mr. Morse was in the store about an hour. The next time I saw Sam Yick and Morse together after August the 25th was on September the 4th and 5th. I saw them only once in the [94] room. I saw Sam Yick come to the house twice after that. On September the 4th, about eight o'clock in the evening, I saw him again in the room in the same way. On September the 5th,

(Testimony of W. E. Giddings.)

I saw Sam Yick come to the house, but I didn't see him in the room.

Mr. DOCKWEILER.—No cross-examination.

[**Testimony of Edna M. Giddings, for the Government.**]

EDNA M. GIDDINGS, a witness called on behalf of the Government, having first been duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Edna M. Giddings; I live at Bakersfield; I am the wife of William E. Giddings; I know the defendant Sam Yick; I have known him about two years and a half; I have known Jung Kim about the same length of time. Mr. Morse roomed at my house in 1911. I saw Sam Yick visit my house while Mr. Morse was there, ten or fifteen times. Mr. Morse was not in the house at all the times that Sam Yick came. On one occasion Sam Yick came and I was in the back part of the house, and he was already in Mr. Morse's room when I discovered that he was there. I heard some one in the room and I peered into the room from another door and said "Good morning," and asked him if he wanted to see Mr. Morse; he said "Yes"; I told him he was not at home; he asked me where he was, and I said he was out of town, and he wanted to know again if I was sure he was not here, and I said, "Yes." Mr. Morse's bed was unmade; I had used it the night before for some of my family. Sam Yick said, "Well, he sleep in his bed last night"; I said that did not make any difference, that he was not there; that

(Testimony of Edna M. Giddings.)

ended our conversation and Sam Yick went away. I didn't keep any dates of these times, but I think it was some time during the summer, some time after August the 8th; I think it was after August the 8th, because Mr. Morse came back from his vacation on that date. On another occasion [95] after that Sam Yick came to the house when I was in the back yard; he asked for Mr. Morse again. I said he was not there, and Sam Yick asked me if I was Mr. Morse's wife; I said "No," and he went away.

Mr. DOCKWEILER.—No cross-examination.

[Testimony of W. J. Weems, for the Government.]

W. J. WEEMS, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is W. J. Weems; I live at Bakersfield; have lived there for nine or ten years. My business is real estate and collections. I have known Sam Yick for about the length of time I have lived in Bakersfield. I have known Jung Kim three or four years. I know Mr. Morse and was acquainted with him in 1911 when he was in Bakersfield.

On the 27th day of September, 1911, I went with Mr. Morse to Mr. Giddings' house, 1515 Baker Street, where Mr. Morse was staying; it was between one and two o'clock in the afternoon when we arrived in the house. I secreted myself in a closet in Mr. Morse's room. Before I went in the closet we took the lock off the door. While I was in the closet in Mr. Morse's room, the defendant, Jung Kim, came

(Testimony of W. J. Weems.)

in alone. Jung Kim told Mr. Morse that he came to see him for Sam Yick and brought him some money in order to get some Chinese out of jail in San Diego. He paid Mr. Morse sixty dollars in three twenty dollar gold pieces; Mr. Morse wrote a receipt for this money in Jung Kim's presence and gave it to him; the receipt was read while I was in the closet; I could hear it distinctly. I am not in the employ of the Government in any way, and I accompanied Mr. Morse on this occasion at his suggestion.

Cross-examination by Mr. DOCKWEILER.

The closet I refer to was about three feet [96] wide. I remained in there ten or fifteen minutes probably; the door of the closet was closed and the only opening was where the door knob went through; the closet was dark, the only light coming into it was through the door knob hole; the door knob hole was a round hole about an inch wide. I had a chair in the closet, on which I sat down. I looked through this hole in the closet door to see what was going on. I could see all over the room. The closet was in about the middle of one of the walls of the room.

[**Testimony of R. R. Jackson, for the Government.**]

R. R. JACKSON, called as a witness on behalf of the Government, was first duly sworn, and testified as follows:

Direct Examination by Mr. STONE.

My name is R. R. Jackson; I live at Bakersfield; I am in the Passenger Department of the Southern Pacific Railroad; I have been ticket agent for this

(Testimony of R. R. Jackson.)

railroad, at Bakersfield, about four years. I know the defendant, Jung Kim, by sight; I recollect the occasion of his purchasing a ticket at my station in September, 1911; I have the stub of the ticket with me (witness produces stub). This is the stub of the ticket I sold Jung Kim; it shows the date, September the 8th, 1911. The ticket read from Bakersfield to San Diego.

Mr. DOCKWEILER.—No cross-examination.

[Testimony of A. G. Bernard, for the Government.]

A. G. BERNARD, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is A. G. Bernard; I am now immigration inspector at Bakersfield; I have lived at Bakersfield since April the 22d, 1912; I have been an immigration inspector since February 11th, 1907. I will have to refresh my memory by looking at my memorandum-book to find out when I got acquainted with the defendants Sam [97] Yick and Jung Kim; this memorandum was made at the time shortly after I got acquainted with them. On reference to my memorandum-book I find that on August the 24th, 1911, was the date I first became acquainted with Sam Yick and Jung Kim; at that time and prior to that time I was stationed as an immigration inspector at Tia Juana, San Diego and Del Sur, California. On August the 24th, 1911, I went to Bakersfield under the direction of my superior officer in this district,

(Testimony of A. G. Bernard.)

inspector in charge, Connell.

Q. And prior to going there had you had a conference with Mr. Connell here as to your visit over there?

Mr. DOCKWEILER.—Objected to as incompetent, irrelevant and immaterial.

The COURT.—What is it you want to show?

Mr. STONE.—It is simply corroboration, and to show that he acted under the instructions of a superior officer; the same principle that we discussed before.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—It is stipulated, your Honor, that we make the same objection to this line of questions as we did in the case of Mr. Morse, and have the same ruling and same exception?

The COURT.—Yes.

A. I was ordered to go there by inspector in charge Connell.

Q. In receiving the orders did you have any conference with Mr. Connell as to the purpose of your visit?

A. I had a conference with the District Attorney and with Mr. Connell.

Q. Whereabouts?

A. In the District Attorney's office.

Q. In Los Angeles? A. Yes, sir.

Q. You mean the United States District Attorney? [98]

A. Assistant District Attorney Frank Stewart.

Q. Who was present at that conference?

(Testimony of A. G. Bernard.)

A. Inspector Connell, Assisted District Attorney Stewart and Inspector Morse.

Q. E. P. Morse, the man who has just testified?

A. He was here—

Q. What was that conference, where Mr. Stewart, the Assistant United States Attorney, and these other parties were present, about? You need not state what was said, but what was it about?

Mr. DOCKWEILER.—Of course, this is a new man introduced; we have the same objection and the same ruling and exception.

The COURT.—Yes.

A. Why, I was informed that Mr. Morse was approached for a smuggling game, and—

Mr. DOCKWEILER,—Now,—

The COURT.—The difficulty about those matters is that testimony gets into the record that ought not to be permitted.

Q. (By Mr. STONE) Can you state what the conversation was about, without stating the conversation?

A. Smuggling Chinamen.

Q. Whereabouts?

A. Bakersfield, Tia Juana, and San Diego.

The COURT.—The main thing you want to show is that he acted under instructions of his superiors?

Mr. STONE.—Yes, your Honor. I will withdraw the further question.

Q. Did you receive any instructions there from Mr. Connell in the presence of the Assistant United States Attorney in reference to what you were to do?

(Testimony of A. G. Bernard.)

You need not state what was said but did you receive such instructions?

A. Why, nothing only that I should take a hand in it and [99] not take any lead, but to listen and follow up what went on.

Q. What was the date of that conference?

A. It is in the book there. He (Mr. Dockweiler) has got the book.

(Memorandum-book handed to witness.)

A. What was the question?

Q. (By Mr. STONE.) The date of the conference here in the office of the United States Attorney.

A. May 24, 1911.

Q. Then after that, when you went to Bakersfield, on August 24, 1911, was that the first time you went after this conference?

A. That is the first time, yes.

(Witness continuing.) After I arrived at Bakersfield on August the 24th, 1911, I went to the post-office and the jail, talked to the ticket agent and a few people, and then about noon I met Inspector E. P. Morse and stayed with him all the rest of the day. About eight o'clock that evening I went with Mr. Morse to Sam Yick's store, Morse introduced me to Sam Yick and then Sam Yick and Morse and I went into a back room in the rear of the store. Before Jung Kim came into the room Morse introduced me to Sam Yick as the man working at San Diego that was going to help him out in the smuggling deal, and there was some conversation, the substance of which was that we were to get two hundred and fifty

(Testimony of A. G. Bernard.)

dollars for smuggling four Chinamen from Tia Juana to Bakersfield; we had some conversation as to the best way to get them through, the best way to get them from Ensenada, and I said, "Well, if you are going to get them to San Diego, better get them from Tia Juana. That is the better way to do." Sam Yick said, "Well, then, from there." I says, "Well, the most popular route seems to be the railroad, all roads lead to San Diego, and you can have your choice of routes; it [100] is all the same." I told him I thought the railroad was the shortest route. About that time Jung Kim came in, Sam Yick introduced him as the guide, and after he was introduced to me Jung Kim said, "Yes, I will be the guide; you will know me when I shake hands by my extra thumb." I believe Jung Kim also stated that he would be in San Diego August the 28th. At that conference Sam Yick had four pictures of the Chinamen who had been smuggled in. After this conference I went back to my station in San Diego.

The next time I met either of the defendants was on September the 10th, 1911, when I met the defendant Jung Kim on Eighth Street in San Diego. He asked me if I had heard from Morse, saying that he had the four cards and that the four Chinamen were in Tia Juana; that he was then going to Chinatown, but he was afraid to stop there and would get a room somewhere else, and would telephone me where it was and let me know when the Chinese were ready to come across.

I am testifying to these matters from my memoran-

(Testimony of A. G. Bernard.)

dum-book containing notes made at the time and not from independent recollection.

The next time I saw Jung Kim was on September the 11th; I met him on Eighth Street in San Diego; he asked me where Tia Juana was and said he would meet me on September the 12th at Tia Juana. I went to Tia Juana on the 12th but Jung Kim did not show up, while I was there however I got a telephone message saying that some one wanted to see me at Sixth and "J" Streets at five P. M., so I went there at five P. M., in company with a Mr. Sears and H. W. Weddle, the inspector in charge, and I met Jung Kim on Eighth and "I" Streets. Jung Kim produced the four cards marked in Chinese "E. P. M." on them, and also the names on them of Wah Sung, See Chew, Dock Yook and Ah Sing. (Here Mr. Stone handed witness slips.) Yes, those are the same kind of slips. [101] Then he told me that Ah Sing would not come over, so I took that card from him, or rather he gave me a card as that of one who wouldn't come; he said this man had crossed in Mexicali; he said the other three were found in Tia Juana at Mee Hong's place. He said he would telephone Mee Hong and have the Chinese come over September the 15th. The card I refer to as having been given back to me at that time by Jung Kim had the name Ah Sing on it.

Q. (By Mr. STONE.) I will ask you if that is it? (Handing slips to witness.)

A. That is it * * * . He said this Chinaman

(Testimony of A. G. Bernard.)

was at Mee Hong's place in Mexico; that is what he gave me.

Mr. STONE.—I offer this in evidence as United States Exhibit No. 8.

(The slip received in evidence, marked United States Exhibit No. 8 and read to the jury by Mr. Stone, and is as follows:)

[United States Exhibit No. 8—Memorandum Slip.]

A. G. B. received from Chang Kim—5 P. M. Sept.
12/11.

“(Chinese characters).”

MEE HONG

Apartado Num. 4

Tia Juana, B. CFA. Mexico.”

(Witness continuing.) After I left Jung Kim on this occasion I went down the street and passed Mr. Weddle and Mr. Sears, and as I passed I spoke to Weddle and said, “This is what I got from him,” showing him the papers I had just got from Jung Kim.

On the morning of September the 13th, at 8:30 o'clock, I again met Jung Kim on the train going to Tia Juana and we rode all the way to Tia Juana together. When the train got to Tia Juana Jung Kim got off, took the hack with a crowd of tourists and went over across the line into Mexico; that was probably about ten o'clock in the morning; he returned to the American side about 11:30 A. M. When he returned I was at the office and the inspector called me and said that a young Chinaman was downstairs, in [102] front of Lane's store. I went

(Testimony of A. G. Bernard.)

down and found Jung Kim there and he pointed out Mee Hong to me and said, "There is a man wants to meet you at the line." I said to Jung Kim, "Well, write something so that Mee Hong would know me," so Jung Kim wrote something in English and handed it to him.

Q. (By Mr. STONE.) Examine that. (Handed slip to witness.)

A. (Witness reading:) "September 13, 1911. 11:30 A. M. Mr. Jung Kim. That is it. I saw him write that, so did Inspector Nielson. When he gave me this note Jung Kim told me to show it to the boy, meaning Mee Hong, that he would know what to do.

(Writing offered and received in evidence and marked United States Exhibit No. 9, and is as follows:)

[United States Exhibit No. 9—Memorandum Slip.]

Mee Hong come See you too soon you till him
Read May

(marked) A. G. B.

(Written across top in ink:)

Tia Juana.

Rec'd Sept. 13-1911 at 11 30 A. M. from Jang Chung.

(Witness continuing.) When I got that note I looked over to where Jung Kim pointed and there was Mee Hong Standing at the line. I went over to the line, Mee Hong stood on the Mexican side, and I said, "Hello, Pat." Mee Hong says, "Hello, boy." I said, "Any new Chinamen Tia Juana?" He says, "Yes, you know three; little boy tell you." I said, "What little boy?" He pointed towards Jung Kim.

(Testimony of A. G. Bernard.)

I says, "They come across?" He says, "Yes, I think to-night." He says, "You let me take him?" I says, "I can't stop you." He says, "I expect little boy bring them over." And then he walked away from the line. During this conversation Jung Kim was sitting on a bench in front of Lane's store about twenty feet from the line watching us. I next saw Jung Kim about five o'clock that night when he told me that the boys would not come over to-night, that he had to go to town to get something for them, and that they would come to-morrow night, so Jung Kim got on the train, and Inspector Nielson rode on [103] the train to the first station to see that he did not get off. The next night I rode to San Ysidro, the next station to Tia Juana, on horseback and met the train coming in. Jung Kim got off the train; I motioned to him as he got off and he went straight towards the Mexican line; this was about dusk. I watched him going towards the line as far as I could, and then I rode back to Tia Juana, and at seven o'clock that night Nielson and I got in a wagon and drove to San Ysidro and we waited there until 8:30; then we drove on to Palm Avenue and we went in, put our team up and laid down behind the station until about 10:30. Jung Kim came along and passed us; we waited until he got quite a distance past to see if any Chinamen were following, when we found there were none following him I went on after him and asked him where the Chinamen were; he said they were right behind, I told him he had better go find them as I did not see them; so Jung Kim came

(Testimony of A. G. Bernard.)

back with us to the station looking for the Chinamen; then we went towards the line a little ways and couldn't find them; we hitched up the team, put Jung Kim in the wagon and drove on about a mile and searched all over the country until quite late; then we drove to Thirtieth Street, San Diego, and we lay out all night waiting for the Chinamen, but they did not show up, we did not find them at all, we stayed there until daylight, but the Chinamen never showed up. On the morning of September the 15th Jung Kim telephoned to my house and I met him on the street and we went together to a telephone station and he tried to get Mee Hong over the telephone and couldn't get him, and I made arrangements to meet Jung Kim that evening and look after the Chinamen, and that evening I picked up Inspector Nielson and Jung Kim at the cross-roads below Palm Station, Nielson and Jung Kim had walked out on the track to find the Chinamen, Jung Kim had played out and couldn't go any further so we had to take him back to San Diego.

On the morning of September the 16th, about 9:30, I got a telephone message from Jung Kim at the house telling me to come down right away. I met Jung Kim on "H" Street and he said, [104] "China boys in jail by paper I see."

Q. Said What?

A. He said, "I see by paper I see China boys in jail." I says, "Too bad; that settles it, then." He says, "Well, maybe you help me some." I says, "How?" He says, "Well, we find out maybe them

(Testimony of A. G. Bernard.)

in jail, maybe you help me, you give them some help.” So we went to the telegraph station—I don’t know exactly what time it was, some time during the morning, and he wrote out a telegram and I took the telegram and crumpled it up this way and I rewrote the telegram myself and he sent the telegram; that is, I sent the telegram from his writing to Bakersfield.

Q. What did you do with the original?

A. It is here somewhere. I turned it in in my report.

Q. (Showing paper.) Is that the telegram?

A. That is the telegram.

Q. Did you see Jung Kim write it?

A. Yes, he wrote it sitting down at the table in the—

Q. Wrote all that is on that?

A. Well, there is a lot of writing. Shall I read it?

Q. Well, show that that you wrote.

A. That is all I wrote on there.

Q. In blue pencil? (Showing.)

A. Yes, that is my signature “A. G. B.”

Q. Anybody else present when he wrote this?

A. Nobody to pay any attention to him, of course.

Mr. STONE.—You have seen this?

Mr. DOCKWEILER.—Yes.

Mr. STONE.—Q. Did you write any of that telegram except the identification blue mark on there, Mr. Bernard?

A. No, no.

Mr. MOTT.—You mean the copy. You wrote the telegram that was sent? [105]

(Testimony of A. G. Bernard.)

A. I wrote the telegram myself.

Mr. MOTT.—You yourself filed the telegram that you wrote yourself?

A. Yes, I sent that myself; yes, sir.

Mr. STONE.—You copied it from this?

A. I copied it from that.

Mr. STONE.—We offer this in evidence as Government Exhibit No. 7.

Mr. DOCKWEILER.—Well, I want to put in a formal objection. We object to the admission of it in evidence on the ground it is incompetent, irrelevant and immaterial.

The COURT.—Objection overruled.

Mr. DOCKWEILER.—Exception.

The COURT.—That I understand to be the original paper written by Jung Kim?

A. He wrote that himself, yes, sir.

Mr. STONE.—You slipped that in your pocket and made a copy?

A. I kept it in my hand; I kept it crumpled up in my hand; I didn't slip it in my pocket.

(Here telegram was received in evidence as United States Exhibit No. 7, read to the jury, and is as follows:)

(Testimony of A. G. Bernard.)

[United States Exhibit No. 7—Telegram, Dated September 16, 1911, from Jang Chang, to Gai Shee.]

A. G. B. Sept. 16/11, from 12 m.

Sept. 16th, 1911.

To Gai Shee

No. 723 18th St., Bakersfield, Cal.

fou chi na woo Sam goy yen duck yea I come back tomorrow.

JANG CHANG,
San Diego, Cal.
JUNG KIM.

(Witness continuing.) At the time Jung Kim sent the telegram he said he was sending it to Sam Yick; he didn't explain why he addressed it to Gai Shee. I don't know what other name Sam Yick goes under besides his own name; I didn't know anything [106] about Gai Shee. After he had sent the telegram Jung Kim asked me if he could see the boys that were in jail. I told him he certainly could and Jung Kim gave me a letter in Chinese and he says, "You give them this; they will feel better."

Q. (By Mr. STONE.) Examine this. Is that the letter? (Handing paper to witness.)

A. (Witness reading:) "A. G. B. September 16, 1912, noon." That is right after he sent the telegram he wrote that, about noon on the sixteenth.

(Paper offered for identification and filed as United States [107] Exhibit No. 10 for identification.)

(Testimony of A. G. Bernard.)

(Witness continuing.) I left town at 1:15 P. M. that same day, September the 16th, and I didn't see Jung Kim again until after I was stationed at Bakersfield, and I have never spoken to him since about this case.

Cross-examination by Mr. DOCKWEILER.

Since I have been transferred to Bakersfield I have met with no personal difficulties in the discharge of my duties; no one has attempted to kill me, no one has shot at me. I go to Chinatown quite frequently and have ever since I have been up at Bakersfield and no one has tried to interfere with me in the discharge of my duties there. After being told by the immigration officials to go to Bakersfield the first time I saw Sam Yick was August the 24th, 1911. I was taken over to Sam Yick's place by Mr. Morse; I met Mr. Morse about noon of that day and we went to Sam Yick's place at eight o'clock that night. During the time I first met Mr. Morse that day and our visit to Sam Yick's store, we talked over the case but we made no plans as to what course to pursue. When we walked to Sam Yick's store we intended to entrap him; we had made up our minds before we went there that we would entrap him. I talked over the case with Mr. Morse and knew what the case was, but no plan of action was outlined or agreed upon between us. Up to the time I got to Sam Yick's store I had never heard of Jung Kim that I know of in any way whatever. After going into Sam Yick's store that evening, as nearly as I can recollect, I walked through the store. was intro-

(Testimony of A. G. Bernard.)

duced to Sam Yick, went into a little room right behind the store and sat down there. Sam Yick sat down, Mr. Morse and I sat here and Sam Yick there. I was introduced as the man who would take care of the San Diego part of it. Sam Yick asked me some questions about the country as to how many soldiers [108] were on the line, or how many inspectors, about the number of Chinamen in Tia Juana, and which was a short road to Tia Juana; he said there were four Chinamen in Ensenada to smuggle, and that we would get two hundred and fifty dollars apiece, and he asked me which was the best way to bring them, which was the shortest road. I think it was at this point that Jung Kim came into the room. Mr. Morse and I were in the room with Sam Yick for quite a while before Jung Kim came in though we were interrupted twice by telephone messages. I don't think we were in there as much as half an hour before Jung Kim came in; Jung Kim was sent for by Sam Yick and when he came in he was introduced to me as the guide. After leaving Sam Yick's store I believe I returned that same night; I didn't see Sam Yick again until after I came back to Bakersfield and was stationed there, that was in April, 1912.

The first time I saw Jung Kim again was on Eighth Street, San Diego, on September the 10th. I had been told he was coming. I was expecting him. I didn't know definitely what day he was coming, August the 28th was the date first fixed, but as a matter of fact he didn't come until September

(Testimony of A. G. Bernard.)

the 10th. I met him before he telephoned me. I was not notified by Mr. Connell or Mr. Morse or anyone else of the day on which he was coming. After conference in Bakersfield I very likely made the suggestion that Jung Kim should telephone me as soon as he arrived in San Diego. On leaving Jung Kim in San Diego on September the 10th I took him aside and asked him for his birth certificate and he asked me if I had heard from Mr. Morse. I told him I had, and he said he had got the four cards for the China boys in Tia Juana. At the time I told Jung Kim I had heard from Morse I had not actually received any communication from him but the office had; I answered Jung Kim's inquiry evasively; I think my statement to him at that time, that I had heard from Mr. Morse, was not true. [109] Jung Kim left me then and said he would phone me when he was ready to cross the Chinamen. Jung Kim didn't tell me at that time that he had never been to San Diego before; I didn't know at that time whether he ever had or not. He didn't tell me at Bakersfield that he had never been to San Diego. I didn't take Jung Kim in a buggy to show him where the boundary line was; Mr. Nielson didn't do it; I am absolutely certain of that; I don't know how Jung Kim knew how to go over to Tia Juana; I didn't tell him how to get there; I will swear that I didn't; I didn't take him and show him how the Chinamen were to be brought over or what time they were to come over, and I know that Mr. Nielson never did because he was with me practically all the time, or else

(Testimony of A. G. Bernard.)

stationed where he could not get Jung Kim.

My next meeting with Jung Kim was on "H" Street on September the 11th; he was alone.

Q. Well, what was said?

A. He said he had been out on the San Diego railroad.

Q. By him to you or by you to him?

A. He said he had been out on the San Diego railroad as far as the brewery, which was Thirtieth Street. Then he wanted to know how to get to Tia Juana. Then he said he would meet me at Tia Juana September 12th.

Q. Now, when he asked you how to get to Tia Juana what did you say to him, if anything?

A. I said, keep walking.

Q. Is that all? A. Yes, sir.

(Witness continuing.) All I said to Jung Kim at this time was to keep walking. I didn't tell him in what direction to walk. I was anxious to entrap him; I was doing everything in my power to bring about his entrapment, but I said nothing else to him in answer to his inquiry, except, "keep walking." At this meeting [110] Jung Kim said he would meet me at Tia Juana September 12th; this was an accidental meeting and there was no one else present that I remember. When I say the meeting was accidental, I mean as far as Jung Kim was concerned. I was watching him and tracking him wherever he went; at least I was trying to but didn't make a very good success of it. Jung Kim never refused to give me any information when I asked for it.

(Testimony of A. G. Bernard.)

The first I knew of this case was when I received a telegram calling me to Los Angeles on May the 22d, 1911. The telegram was sent by Mr. Connell and I talked the matter over with Mr. Connell and the district attorney. At that time in May, 1911, there was some fighting going on on the border between the I. W. W. and the town of Tia Juana, and there had been some trouble at Mexicali, and also Alamo, and the border was in a state of excitement during that time and up until the 22d of June. On that date the Mexican Federal Troops took the town of Tia Juana, and after this things quieted down along the border. I first became active in the Sam Yick case on September the 10th, 1911, excluding the date of the conference at Bakersfield August the 24th. I did nothing actively in any way whatsoever in the Sam Yick case or with reference to entrapping Sam Yick prior to August the 24th.

Q. I hand you a letter and ask you if the signature appearing thereon, A. G. Bernard, is your signature? (Handing paper to witness.)

A. That is my signature.

Q. You wrote that letter? A. Yes, sir.

Q. I will read it to you. (Reading.) "Office of inspector in charge, San Diego, Cal., June 23, 1911."

A. That is the day after the town was taken.

Q. But I was asking you if you had been active in

(Testimony of A. G. Bernard.)

this case prior to August 23. I will show you this so you can see it. [111]

(Reading:)

“Inspector in Charge Immigration Service,
Los Angeles, Cal.

Through official channels.

In reference to the case of Sam Yick of Bakersfield, Cal., I have to state that the country below Tia Juana, Cal., is now open to traffic and we may expect overland passing of Chinese at any time now, especially so as some of the most notorious Chinese smugglers are with the Federal troops as scouts and the taking of Tia Juana will very likely leave them without employment. There are a large number of Chinese at Ensenada and it appears to me that some smugglers will be apt to have a bunch of Chinese at Tia Juana in a very short time. Respectfully,

A. G. BERNARD,

Immigration Inspector.”

In reference to the case of Sam Yick at Bakersfield, what did you mean when you used the term, “I have to state that the country below Tia Juana, Cal., is now open to traffic”? Can you explain that?

A. Well, the letter states general conditions along the border, and I had been told that as soon as the matters along the border were settled there would be some action in the Sam Yick case.

Q. Oh. Now, was it not true that the town of Tia Juana having been captured by the Rebels, or whatever they were, in Mexico, and things having smoothed down and the trouble on the border ad-

(Testimony of A. G. Bernard.)

justed, the time had come to encourage Sam Yick to get into this smuggling game? Now, wasn't that the idea? A. No, sir.

Q. That it was an appropriate time to bring Chinese across the border?

A. No, sir. I was stating conditions as they were at the border and calling attention to the fact that, if anything of that kind would happen I should be right on the job and not sent somewhere else. That is what that has reference to.

Q. Now, you a little while ago answered me that you had done nothing actively in the Sam Yick case prior to August 24. A. Exactly.

Q. And yet, here on June 23, 1911, you called special attention to Sam Yick of Bakersfield, and also called your superior's attention to the fact that the situation now was a very [112] agreeable one, in effect, to bring Chinese over. Didn't you mean by that that the time was propitious for your superior officers to get after Sam Yick and get Sam Yick to start in and get those Chinamen over?

A. No, sir. As I have stated before, it was that I should be on the job if anything was started. That I shouldn't be moved anywhere else. I had been moved around quite a bit.

Q. Well, now, as a matter of fact, you had heard before, as a matter of recollection now, before June 23, 1911, of Mr. Morse's scheme to entrap Sam Yick?

A. Well, I heard of that in May.

Q. In May. But May was a very unpropitious month to try anything of the kind, wasn't it, on ac-

(Testimony of A. G. Bernard.)

count of the disturbed conditions?

A. Yes, sir.

Q. Isn't that true? A. Yes, sir.

Q. In other words, nobody could very well have gotten any Chinamen across, or anybody else across the border at that time? A. Yes.

Q. There were contending forces there?

A. Yes.

Q. Fighting—they were at war down there. All right. But, just as soon as the war stopped, you thought the time was a good time to bring on Sam Yick, if he could possibly be gotten to come down there, or have some one go down there for him, didn't you, now?

A. No, as I stated before, I called attention to the fact that something might be starting; I didn't want to get moved.

Q. But didn't you notify the office that this was a good time to get things started? [113]

A. This office didn't have anything to with that.

Q. Well, wasn't this communicated to Morse at Bakersfield?

A. They could do as they liked with it.

Q. But what was your intention?

A. As I say, I called attention to the fact that something was liable to start at any time, and I didn't want to be moved.

Q. Why? Had there been any talking of moving you at that time? A. Yes, sir.

Q. Well, why did you start your letter by saying, "In reference to the case of Sam Yick at Bakers-

(Testimony of A. G. Bernard.)

field, Cal., I have to state that the country below Tia Juana, California, is now open to traffic''? Why did you make that statement?

A. Well, if I recollect properly, there is a letter on file at San Diego that says nothing would be done on account of the conditions and soldiers and—

Q. Oh, in other words, that is it, you wrote this letter to notify this Los Angeles office that the situation had changed down there, isn't that true?

A. Yes, sir.

Q. The Los Angeles office had written you that there would be nothing done in Sam Yick's case for the present, on account of the disturbed conditions or something to that effect?

A. I don't know what the letter was, but that is my impression.

Q. Your impression? A. Yes, sir. [114]

(Witness continuing.) Jung Kim was going to meet me at Tia Juana on the 12th and he didn't show up. I took my team and drove to Tia Juana myself and waited for him. I met Mr. Neilsen at Tia Juana. I never helped Jung Kim or gave him a lift to get to Tia Juana. I don't know that Jung Kim said to me at any time that he wasn't familiar with the country around San Diego, but he was inquiring of me once or twice as to where and how he could get to Tia Juana. I judged from his inquiries that he didn't know much about the country. At the time I met Jung Kim when he informed me that he had walked along the railroad track as far as the brewery. I said nothing else to him in answer to his inquiry

(Testimony of A. G. Bernard.)

as to how to get to Tia Juana, except, "keep walking" I gave him no other directions than that, it was possible for him to walk in a number of directions from there, but I didn't care which direction he took, though I wanted to entrap him, and I was anxious for him to be sure *to over* to Tia Juana and to do so in such a way that the Chinamen would actually be brought over.

Q. You have been reading from a book here, and I find, Mr. Bernard, that it is not a diary, is it?

A. It is a diary as far as this case is concerned consecutively.

(Witness continuing.) Some of the memorandums in this book were made on the train and some were made this year; they were not all made on the dates they appear to have been made in the book, this is an expense-book and a memorandum-book. I had to use only one book so I put part of my memorandums in here to keep track of what I did each day.

Q. Now, run along there, and show us where the entries in this Sam Yick case were made.

(Witness continuing.) I have to turn the book upside down in order to get the entries in the Sam Yick case; they commence [115] on the fourth to the last page of the book after the book has been turned upside down. I made a special case of this in this book and I didn't follow the chronological order in making my entries. Under date of August the 24th, 1911. I have no memorandum of going up to Bakersfield. The next memorandum after that date appears to be under date of November the 8th.

(Testimony of A. G. Bernard.)

I used this book in chronological order from the time I got it, making entries on each succeeding page up to and including December 1911, and I made no entry in chronological order of anything in connection with the Sam Yick case. It is not a fact that these entries in the back of the book were made long after the occurrences in connection with the months of August and September, 1911; there is blue pencil used in the book and ink and all kinds of pencils. (Here book is introduced in evidence and marked Defendant's Exhibit "A.")

(Witness continuing.) On the night of September 12th I met Jung Kim at Sixth and "J" Streets, at San Diego, about five o'clock. Inspector Weddle and George Sears were with me. He told me that the three boys were over at Tia Juana and were to cross the next day; he said that he would meet me at Tia Juana the next day; he said he was going on the train; he told me he was going to take the San Diego and Arizona train which left at that time at 9:15 A. M., and reached Tia Juana at 10:00 A. M. I saw Jung Kim that next day, September the 13th, at Tia Juana; he crossed over into Mexico as soon as he got off the train; he took the boys and went over; I met Jung Kim at about 8:30 that morning at the depot in San Diego and I sat alongside of him on the train all the way to Tia Juana; he kept looking out of the window and inquiring what road that was and what this building was, and I told him. Nothing was said by Jung Kim to me or by me to Jung Kim on the way down on the train, except that he would bring the

(Testimony of A. G. Bernard.)

Chinamen over that night; he didn't tell [116] me when he was going to bring them over, and he didn't talk about the place to which they were to be brought over. All roads from the boundary line led to Palm Station, which was where I and Inspector Nielson watched for him that night, because he had to come by there unless he went by way of Coronado; Palm Avenue is about three miles from the International boundary line; at no time on the way down on the train did I indicate to Jung Kim the spot where he was to bring the Chinamen over; I sat there in a receptive mood and volunteered no statements to him; he acted as though he knew nothing about the country, inquiring about everything that he came to. I cannot swear that Jung Kim brought in Chinamen over across the line that night; I didn't find any of them and we both looked for them as far as San Ysidro, which is about a mile and a half from the boundary line; I don't know whether these Chinamen came over by themselves or whether Jung Kim brought them over.

At the time Jung Kim sent the telegram to Bakersfield, he told me that he wanted to send a telegram and I showed him where the telegraph office was and took him down there. I didn't tell him that he ought to send a telegram to Sam Yick. Jung Kim simply wanted to tell Sam Yick that it was all off and that he was coming home. Jung Kim had to ask me in order to find out where the telegraph office was; he telephoned me early on the morning of the 16th of September, and the telegram

(Testimony of A. G. Bernard.)

was sent at noon that day; he asked me to meet him at his hotel but I met him on the corner of H and Sixth Streets; he had already told me on the telephone what was the matter; he told me over the phone, "I see you catch him boy." I said I didn't know anything about it; I guessed the police got them. Jung Kim said, "You no catch them?" I said, no, that the police had got them, that we had been out all night looking for them, and Jung Kim said, "Well, I guess all off; I think pretty soon look for me." I said, "No, I [117] guess not; no danger of you getting caught." When I met him on the street he wanted me to see what I could do for the Chinamen. He said he wanted to have them sent to Mexico. I think it was about 11:30 in the morning when I escorted him to the telegraph office. I led him up to the Western Union Telegraph office between D and E Streets on Fifth Street; this was about five or six blocks from Jung Kim's Hotel. Fifth Street is a leading street in San Diego, and it is probably about six blocks from Jung Kim's hotel to the telegraph office, and the way was located along the principal business portions of San Diego. There was no discussion before we entered the telegraph office as to the nature of the telegram to be sent to Sam Yick. Jung Kim wrote several telegrams and tore them up. When he had written the telegram that is in evidence here he handed it to me and I stepped right up to the center of the office and copied it immediately; I made no suggestion before of anything that he was to say in the telegram; the

(Testimony of A. G. Bernard.)

whole telegram was the composition of Jung Kim himself. I do not know why he did not file it with the clerk and have it sent off when he was through writing it. I took it from him and said I would send it. I do not think Jung Kim saw me copy the telegram. I had my back turned to him. I just stepped over, made a copy and handed it to the clerk. Jung Kim seemed to be absolutely dependent upon me to find out first where the telegraph office was and secondly as to the manner in which the telegram should be sent; it seemed to me that if I hadn't been there Jung Kim wouldn't have known how to have written or sent this telegram without the aid of somebody else. I didn't tell Jung Kim what was to go in the telegram. It was the night of the 14th and part of the 15th that we stayed out all night until Jung Kim was tired out; we left Tia Juana at about 7 o'clock that night. Inspector Nielson was with me and we travelled in a light wagon with a double team. We drove from Tia Juana to San Ysidro, and there we waited until about 8:30; then we went on to Palm Avenue and we hid there until 10:30. Jung Kim came [118] along about 10:30 that night. After Jung Kim had passed by I followed him on the track and asked him where the Chinamen were, and when he said they were close behind I made him come back to look for them; they were not there at all. Then Jung Kim and I met Nielson, and then we hitched up the rig, and with Nielson driving the three of us went in the direction of the line looking for them everywhere, any place

(Testimony of A. G. Bernard.)

we thought they possibly might be, and we didn't find them. After traveling around for a while Jung Kim got tired and we put him in the rig and drove to Thirtieth Street, where we stayed and waited all night; we watched half the night and Nielson the other half. Jung Kim got one of the first cars into San Diego after daylight and went back to his hotel. The police were not co-operating with me in any way and the arrest of the three Chinamen by them, was purely accidental.

Redirect Examination.

(By Mr. STONE.)

Neither of the defendants at any time gave me any money. On the night when we met Jung Kim and looked for the Chinamen, Jung Kim didn't say that he had brought them across the line.

[Testimony of A. R. Nielson, for the Government.]

A. R. NIELSON, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination.

(By Mr. STONE.)

My name is A. R. Nielson. I am an Immigrant Inspector and have been so for about six years. I have been stationed at El Paso and at San Diego and along the Canadian border. I came to San Diego and was stationed there in August, 1911. I have seen the defendant Jung Kim; the first time I *was* him was on the 13th of September, 1911; at Tia Juana; I saw when he got off the train from

(Testimony of A. R. Nielson.)

San Diego at Tia Juana. I was inspector on duty at [119] Tia Juana at that time.

Mr. Bernard came on the same train that time. The train arrived in Tia Juana about ten o'clock in the morning. As soon as Jung Kim got off the train he got in a wagon and went over to Tia Juana, Mexico. After about an hour and a half he came back to the American side of the line. I called Mr. Bernard, and Mr. Bernard had a conversation with him; I heard the conversation; they were talking about certain Chinese, three or four of them, I believe, to be brought from Mexico to the United States; Jung Kim took a slip of paper and wrote a note and handed it to Mr. Bernard right in the store there, on the line, and told him to give it to another Chinaman that was across the line, and that this Chinaman would know what to do; I saw Jung Kim write the note.

(Here Mr. Stone hands paper to the witness, United States Exhibit No. 9.)

(Witness continuing.) Yes, that is the note. About five o'clock of that same evening I saw Jung Kim as he took the five o'clock train back to San Diego. The next time I saw Jung Kim was about ten o'clock of the evening of September the 14th at Palm Station. Inspector Bernard was with me, and we were watching at Palm Station, and Jung Kim came walking along about ten o'clock, or half-past ten. He was going in the direction of San Diego. Mr. Bernard intercepted him after he had passed us and called him back to the place where we

(Testimony of A. R. Nielson.)

were watching; we asked Jung Kim what had become of the Chinamen. He said, "They are right behind me." And we then waited for probably five minutes and nobody showed up, so we began a search for the Chinamen, and searched probably an hour or two, and didn't find them; then we went towards San Diego and watched outside of San Diego for the balance of the night. Jung Kim was with us until daylight. The next night, September the 15th, Jung Kim went with us down to Palm Station to look for the lost Chinamen. We searched down there until probably about ten o'clock that evening; then Jung Kim got tired and [120] took him back to San Diego in our wagon; that was the last time I saw Jung Kim.

Cross-examination by Mr. DOCKWEILER.

I searched for Chinamen on two occasions, the night of September the 14th and the early morning of the 15th, and I found none. On the 13th of September I saw Jung Kim with Bernard; they both got off the same train; they were not talking together at the time. After getting off the train Bernard came to me and said, "That is the man that works in connection with the Sam Yick case." Jung Kim got on a wagon and went over to Mexico and he was gone about an hour and a half or two hours. When he came back, Bernard went out to meet him. Jung Kim came back alone on foot; I heard him say that the Chinamen would not be ready that day, and that they would be one short, that one Chinaman would not come; I next saw Jung Kim at

(Testimony of A. R. Nielson.)

five o'clock that evening, when he got on the train to go to San Diego. Bernard told me to get on the train and watch to see if any Chinamen got on between Tia Juana and the next station, but no Chinese got on. The next time I saw Jung Kim was the next day about ten o'clock in the evening when he passed Bernard and myself along the railroad track, and Jung Kim and myself and Bernard all looked for Chinamen that night and until very early next morning, and found none. The next evening again we took Jung Kim out and looked for Chinamen; we found none, but Jung Kim got so tired we took him home.

[Testimony of Chan Kiu Sing for the Government.]

CHAN KIU SING, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Chan Kiu Sing. I can speak and write both in [121] English and Chinese. I know how to translate Chinese into English. I am the interpreter in this court.

(Here Mr. Stone shows witness United States Exhibit No. 10 for identification.)

Q. (By Mr. STONE.) I show you U. S. Exhibit No. 10 marked for identification as Exhibit No. 10 and a translation of it purporting to have been made by you. I will ask you whether you have translated that Chinese letter, and if so, is that the translation in English which you have signed? (Handing

(Testimony of Chan Kiu Sing.)

paper to witness.) A. Yes, sir.

Q. Is that a correct translation?

A. Yes, sir, to the best of my knowledge.

(Witness continuing.) This is almost a literal translation of the Chinese letter and this is my signature on the translation.

(Here the letter was offered and received in evidence as U. S. Exhibit No. 10, and was read to the jury by Mr. Stone and is as follows:)

[United States Exhibit No. 10—Translation of Letter, Dated Los Angeles, California, March 26, 1914.]

Translation.

“Los Angeles, California, March 26, 1914.

Respectfully expressed as to inquire about the foreign friend; when you see this letter you will know that in twenty days' time will return to Mexico. I determine to come over to get you to the city of Bakersfield. I left this morning to come out. Need not to worry. You must destroy the three small slips of paper that you had in the days before, and if on what day you are to come out I say ask him to write and let me know. When you get back to Mexico write me of your stopping place. Must not keep this paper. Cast it out after reading same.”

(In handwriting.) “The above is a correct translation of Govt. Exhibit No. 10. Chan Kiu Sing.”

[**Testimony of Edward P. Morse, for the Government
(Recalled).**]

EDWARD P. MORSE, a witness called on behalf of the Government, being recalled, testified as follows:

A JUROR.—If your Honor please, I would like to ask a question of the witness.

Mr. STONE.—No objection.

Mr. DOCKWEILER.—No objection. [122]

Q. (By JUROR.)—I would like to ask you, Mr. Morse whether at any time your superior officer did ever suggest to you that it may be as much your duty to suppress a crime or prevent a crime as it was to arrest a person after the crime had been committed?

A. No, sir, he did not. At the conversation or conference held with the assistant United States Attorney, Mr. Stewart, my superior officer, Mr. Connell, Inspector Bernard and myself had instructions from the U. S. Attorney to entertain any proposition that was made to us; to act in a receptive mood only and to act along the lines suggested by Sam Yick and Jung Kim, but we had no instructions to—or no suggestion was made, as you state to suppress whatever suggestions were made.

Q. It never entered your mind that it might be your duty to prevent a crime?

A. Well, I took up the matter with my superior officers and followed their instructions and the instructions of the Assistant United States Attorney.

The COURT.—Go on, gentlemen.

Q. (By Mr. DOCKWEILER.) Have you that

(Testimony of Edward P. Morse.)

letter to which I referred the other day?

A. The letter has been in the files; it has been in your hands for several days.

Q. Well, have you that letter now? A. No, sir.

Q. Is it here?

A. Yes, sir, I suppose so. I haven't seen it this morning; I saw it yesterday.

(Witness continuing.) (In answer to question by Mr. Stone.)

And that is the letter you wrote to Mr. Connell?
(Examining letter handed to him by Mr. Stone.)

By Mr. STONE.—The letter is dated Bakersfield, Cal., 5/10/11, and addressed to the Inspector in Charge, immigration service, [123]. Los Angeles, signed by Edward P. Morse, Chinese Inspector. That portion of the letter referring to Sam Yick says: (Here Mr. Stone reads portion of letter to jury:) “He said he would expect to make some arrangements so as to get the Chinese past the immigration officer at San Diego, Cal. And I told him that could be arranged for later on. I left him with the understanding that he was to write to me and let me know just as soon as he received the photo. I will be glad to receive suggestions as to the best way to proceed in the matter.”

[Testimony of George M. Sears, for the
Government.]

GEORGE M. SEARS, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

I live in San Diego. I am in the real estate business. I am acquainted with A. G. Bernard, Immigrant Inspector, and with Mr. Nielson I have known *tham* for about three years; I know the defendant Jung Kim by sight; the first time I saw him was on the 12th of September, 1911, on Sixth Street, San Diego, between H and I streets. Mr. Weddle, the inspector in charge at San Diego, was with me; Mr. Bernard was with Jung Kim; they were standing on the sidewalk about in the center of the block. I couldn't hear anything that they said and I didn't see them when they first met there; they were standing there talking when I went by; I am positive Jung Kim is the same man I saw talking with Mr. Bernard on the 12th of September at that particular place.

Cross-examination by Mr. DOCKWEILER.

I have only seen Jung Kim once before in my life before seeing him in the courtroom here, and that was on September the 12th, 1911, on the occasion that I have testified to; on that occasion I was walking down the street with Mr. Weddle, the [124] Inspector in Charge of Immigration Service at San Diego, and Mr. Weddle called my attention to

(Testimony of M. Sears.)

Bernard and Jung Kim talking, and pointed out to me that Jung Kim had two thumbs and to look at them so that I would recognize him again.

[Testimony of B. Moriarity, for the Government.]

B. MORIARITY, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is B. Moriarity. I live in San Diego. I am Captain of Police there and have been such for about ten years. I was Captain of Police there in October, November and December, 1911. I remember the circumstance of three Chinamen being arrested by the police and put in jail there; the date was September the 15th, 1911; I was present when the Chinese were brought to the station. The Chinamen when brought to the station had a slip of paper in their hands. I took these slips of paper and turned them over to Mr. Weddle, the Inspector of Immigration, later on. I marked the slips by writing my name and the date on them. (Here slips are handed to witness.) Yes, those are the slips that I have reference to; each of the Chinamen had one of those slips when arrested. The Chinamen gave the names on those slips when they were arrested.

(Here Mr. Stone exhibits U. S. Commissioner's docket at San Diego to the witness.)

(Witness continuing.) After examining these three pictures in this docket, I would say that in my judgment they are pictures of the three Chinese I

(Testimony of B. Moriarity.)

have testified about. After the Chinamen were arrested they were taken in charge by Mr. Weddle, Immigrant Inspector.

Cross-examination by Mr. DOCKWEILER

These three Chinamen were brought into this station between [125] eight and nine o'clock in the evening of September the 15th. Mr. Weddle was not there when they were brought in but arrived about ten o'clock. I happened to mark these slips in the way I have testified to because I suspected that the Chinamen were contraband and the slips would be used in evidence.

[Testimony of J. K. Wilson, for the Government.]

J. K. WILSON, a witness called on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is J. K. Wilson. I have lived in San Diego about thirty years. I am Chief of Police of San Diego, and I was such Chief of Police in September, 1911. I remember the circumstance of three Chinese being arrested and turned over to me in September, 1911; the date was September the 15th. Between eight and nine o'clock in the evening I was out on a burglary call, searching a house to get a burglar, and as I got through a little boy came running across the street on Sixteenth Street, between J and K, and told me two civilians were over there holding guns over two Chinamen, and he wanted me to come over there and see what was the trouble, and I ran over

(Testimony of J. K. Wilson.)

there to where there was a big water trough, and these three Chinamen were sitting on the trough and two civilians holding them. The civilians holding them were named Freeman and Harmon. Harmon told me that the Chinese were running and they held them up; they had been out walking through the sagebrush and had all fallen in the water and got wet. I put all three Chinamen in a machine and took them to the Police Station and turned them over to Captain Moriarity and told him to search them. I immediately telephoned Mr. Weddle, the Immigration Inspector, and he came down and took charge of the Chinamen. Each of the Chinamen had a little slip of paper. (Here slips are handed to witness.) Yes, these are the three slips. I remember those initials being [126] on there. (Here the witness is shown U. S. Commissioner's docket at San Diego.)

Q. Will you please examine this docket?

A. This is the little fellow. This is Chew, the small, little fellow.

Q. He called himself, what?

A. Chew. The reason I remember him is we joshed him because we had an officer named Chew on the force. I remember him well. That is all of that.

Q. Those three? A. Yes.

Q. As shown on pages 31, 32 and 33 of the Commissioner's docket?

A. Yes. I remember, the little fellow, Chew. But that is the three names.

(Testimony of J. K. Wilson.)

Cross-examination by Mr. DOCKWEILER.

The civilians who had stopped the Chinamen had no connection whatever with the Police Department; they simply had seen the Chinamen running and that created a suspicion in their mind and they ordered them to stop. I took them into custody because on questioning one of the Chinamen he told me had come from Mexico, and it was evident that they had been traveling. The arrest of these Chinamen was purely an accident. It was not done at the request of the Immigration officers. I didn't know of any plan to bring over Chinamen.

[Testimony of H. T. Christian, for the Government.]

H. T. CHRISTIAN, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is H. T. Christian. I am United States Commissioner for this district at San Diego and have been such for five or six [127] years; I was such Commissioner in September, 1911.

(Here Mr. Stone hands book to witness.)

(Witness continuing.) Yes, that is my docket during that period. I write my own docket. The entries on pages 31, 32 and 33 of this book are the docket entries in three different cases showing the trial of the defendants See Chew, Dock Yook and Wah Sung, each of the defendants was ordered deported; these are photographs of the several defendants; these defendants were ordered deported to

(Testimony of H. T. Christian.)

China on September the 20th, 1911; the grounds of deportation were that they were not entitled to be or remain in the United States as Chinese laborers.

[Testimony of Martha L. McCrea, for the Government.]

MARTHA L. McCREA, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Martha L. McCrea. I live at San Diego. I have lived there for three years. In September, 1911, I lived at the Fernbrook Hotel, at San Diego, with my mother, who conducted the hotel. I saw Jung Kim in my mother's hotel about eleven o'clock in the morning of a day in September, 1911. I don't remember the exact date. He had a room there at my mother's hotel, I think from the 9th to the 17th of September. During the time he was there I saw him about three times but never talked to him.

Cross-examination by Mr. MOTT.

I never saw Jung Kim have any visitors while he was staying at my mother's hotel.

Redirect Examination by Mr. STONE.

I did hear Jung Kim telephoning to Tia Juana one morning while he was at my mother's hotel. He was telephoning about meeting some [128] friends over in Tia Juana.

[Testimony of Elizabeth Dickson, for the Government.]

ELIZABETH DICKSON, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Elizabeth Dickson. I live at Lakeside, California. In September, 1911, I was living at the Fernbrook Hotel, in San Diego. I was running the hotel with my sister in law, Mrs. Carrie McCrea, the mother of Martha L. McCrea, the witness who has just testified. I was at the Fernbrook Hotel the whole month of September, 1911. The defendant Jung Kim came to the hotel about the 9th of September, 1911, and took a room there. He stayed about a week; he rented his room by the night and not by the week. He registered when he came to the hotel. I know he signed his last name Kim, but I didn't know what the first name was. He wrote the last name in English letters.

Cross-examination by Mr. DOCKWEILER.

I don't remember what first name Kim wrote. As far as I know he came to the hotel alone. I never saw any of the immigration officers around the hotel and I don't know whether or not he had any visitors.

[Testimony of Carrie McCrea, for the Government.]

CARRIE MCCREA, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Carrie McCrea. I live in San Diego.

(Testimony of Carrie McCrea.)

I had a rooming-house in San Diego, called the Fernbrook, in September, 1911. I had the register leaf of the Fernbrook Hotel for the month of September, 1911, including the night of the 17th of September, 1911, [129] but it was lost or destroyed at the Rosslyn Hotel here in Los Angeles, the second trip I made here in connection with this case; it was taken from my room and destroyed there. I remember that the name Jung Kim appeared on this register here; it was written in English, and I saw Jung Kim sign his name because I rented him the room. He rented it just by the night but only registered once; the name was written on the register, Jung Kim. Jung Kim was there at the hotel from the 9th of September to and including the 16th; I heard him telephoning one morning from the hotel to Tia Juana. I don't know who he was telephoning to or what he said.

Cross-examination by Mr. DOCKWEILER.

The Fernbrook Hotel is located on Sixth Street, between H and I Streets, San Diego. I didn't see Inspector Bernard at the hotel while Jung Kim was there. Inspector Weddle was at the hotel. It is possible that people might have come in to visit Jung Kim without my knowing it.

Redirect Examination by Mr. STONE.

The time I saw Mr. Weddle at the hotel was after Jung Kim had left. Mr. Weddle inquired if such a man had been there.

[**Testimony of Charles T. Connell, for the Government.**]

CHARLES T. CONNELL, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Charles T. Connell. I am inspector in charge of Immigration Service for the Southern District of California. I have been in the immigration service about twelve years. I know Mr. E. P. Morse. I know who the defendants Sam Yick and Jung Kim were. I have seen them in court. I remember the circumstance of Mr. Morse being detailed to Bakersfield as an inspector. We kept [130] him there the greater part of January, 1911, and the latter part of December, 1910, but I can't give you the exact date when he left for Bakersfield, but I think it was sometime in January, 1911. Bakersfield was in my territory at that time, and there had not been an inspector stationed there previously. As inspector in charge I was familiar with conditions around Bakersfield prior to the time Mr. Morse went there. I remember the time when Mr. Morse came in to see me about the proposition made to him to smuggle Chinese at Bakersfield; that was on May the 10th, 1911. I saw him on the morning of that day in my office in the Federal Building, Los Angeles.

Q. What was the conversation about in your office? You needn't tell what was said, but in reference to what subject was it?

(Testimony of Charles T. Connell.)

Mr. DOCKWEILER.—Of course, our objection interposed yesterday to this line of testimony still holds good.

The COURT.—Very well.

Mr. DOCKWEILER.—Is that true?

Mr. STONE.—Oh, yes; it is stipulated you may have your exceptions.

The COURT.—It would be competent for the defense, of course, to draw out the details of that conversation if you want to.

Mr. STONE.—Yes.

The COURT.—But I understand you do not want to do it.

Mr. STONE.—We are willing for all of it to come out.

The COURT.—I say it would be competent for the defendants to draw it out. But you are not proposing to put the evidence in yourself?

Mr. STONE.—No, sir.

Q. (By Mr. STONE.) Just state the subject of the conversation.

Mr. DOCKWEILER.—Of course, it is understood that neither of [131] the defendants was present.

Mr. STONE.—Sure.

A. He stated that a proposition had been made to him by one Sam Yick at Bakersfield.

The COURT.—Well, that is going into details, and I will exclude any detail that might be prejudicial to the defense. We want the general subject matter only that they were talking about.

Mr. STONE.—Yes; I want him to state the subject

(Testimony of Charles T. Connell.)

matter without giving any details; that was my question to the witness.

Q. (By Mr. STONE.) Can you state the subject matter about which you talked, without stating the details of what was said? A. He stated that—

Q. No, what was the subject matter? Did you talk about raising horses or alfalfa?

A. In regard to smuggling Chinese.

Q. Yes, and at what point?

A. At Bakersfield and across the border below San Diego.

Q. Did you give him any instructions as to what to do about the report he had made to you?

A. Yes, sir.

Q. What was that instruction?

A. The instructions were to follow out any suggestions made by the parties making the proposition.

Q. Were there any other instructions about what to do with that report, as to putting it in writing?

A. Yes; he reported to me verbally, and I told him to put it in writing.

Q. And did he put it in writing?

A. Yes, sir, on that day.

Q. On what date was that?

A. May 10, 1911.

Q. I will ask you to state if that is the letter (handing [132] paper to witness).

A. Yes, sir.

Q. And what did you do next with reference to this matter that he mentioned to you, after you received this report?

(Testimony of Charles T. Connell.)

A. Later on I took it up with my superior officers, the matter, and with the United States Attorney.

Q. Who was the United States Attorney that you took it up with? A. Mr. Frank Stewart.

Q. Who were your superior officers?

A. F. W. Berkshire, supervising inspector of the Mexican Border district, with headquarters at El Paso, Texas.

Q. You took it up with him before you took it up with the United States Attorney here?

A. I had had some conversation with Mr. Stewart about it previous to that time.

Q. And who was present when you took it up with the United States Attorney?

A. Inspector Morse, Inspector Bernard, Mr. Stewart, and myself.

Q. And after that conference, what did you do next in reference to this matter?

A. You mean what instructions I gave?

Q. Yes. Who did you give instructions to?

A. I gave instructions to Inspector Morse and to Inspector Bernard.

Q. Where was Inspector Bernard located at that time? A. San Diego, California.

Q. And do you remember how you notified him to appear here for service? A. Yes, sir.

Q. In what manner? [133]

A. I telephoned to the inspector in charge at San Diego.

Q. Did you send him a telegram at any time?

A. I am not certain whether it was a telegram or

(Testimony of Charles T. Connell.)

a telephone message to the inspector in charge under whose direction Mr. Bernard was working at that time at San Diego.

Q. Then do you know who gave Mr. Bernard his directions in the matter?

A. I gave him his directions. All those officers are under my immediate direction.

Q. And your superior officer that has charge of the Mexican Border, the Mexican service all along the border—

A. Yes, sir.

Q. —and the Assistant United States Attorney, Mr. Stewart—

A. Yes, sir.

Q. Had you received advices from them before doing so?

A. I had, yes, *at time*, and by telegraph from Mr. Berkshire.

Q. Up to that time, and when this report was made to you, had you received any information of smuggling going on at Bakersfield?

A. In a general way, yes, sir.

Mr. DOCKWEILER.—Of course it is stipulated that every question that has been proposed is subject to our objection that it is incompetent, irrelevant and immaterial.

Mr. STONE.—No; I have never made that broad a stipulation, your Honor.

Mr. DOCKWEILER.—Well, look here.

The COURT.—You will have an abundant opportunity to be heard, Mr. Dockweiler. I am not disposed to admit this question if it is objected to.

(Testimony of Charles T. Connell.)

Mr. STONE.—All right, then, I will withdraw it if it is objected to.

The COURT.—You had better understand this stipulation, because [134] it runs to all this line of testimony. It is being objected to and ruled adversely upon.

Mr. STONE.—That is true, but there is a misunderstanding between counsel and myself and your Honor. Mr. Dockweiler has several times said that he wanted all objections stipulated to go to the questions about the reports made to the superior officers and this man acting under the superior officer. I stipulated he might have an objection and exception to all that testimony. Now, he gets up here and says—I would like to have the stenographer read it—that it is stipulated that they have an objection to all of the testimony. I think if he wants to object to all of the rest of the testimony he may do it.

The COURT.—I take it he wanted to emphasize the objection with reference to this question.

Mr. STONE.—But I do not want to appear in the record that every question that is asked the witness here is understood to be objected to.

The COURT.—You had better, then, withdraw your stipulation for the future. Let it apply to those questions already propounded. But the last question is certainly one that I will sustain the objection to. Now, you understand, Mr. Dockweiler, that that stipulation is withdrawn, because there might be a misunderstanding as to what it applied

(Testimony of Charles T. Connell.)

to, and certainly, so far as this last question is concerned, I would not permit that question to be answered over objection. The stipulation, then, is withdrawn, Mr. Reporter; that has been referred to.

Mr. DOCKWEILER.—As to the future?

The COURT.—As to the future.

By Mr. DOCKWEILER.—No cross-examination.

[Testimony of Charles E. Kruse, for the Government.]

CHARLES E. KRUSE, a witness called on behalf of the Government, having been first duly sworn, testified as follows: [135]

Direct Examination by Mr. STONE.

My name is Charles E. Kruse. I live at Bakersfield, California. Since June the 12th I have been in the well drilling business. From August, 1911, until June, 1912, I was accountant for the State Banking Department in the Kern Valley Bank in liquidation, and assisting the special deputy also. I know Sam Yick. I was appointed by the court trustee in bankruptcy of his estate. As such trustee I received a small tin box containing papers belonging to Sam Yick; there were some letters in that box which I delivered to Mr. Connell. When I received the box it was locked and the key was tied to a little handle with a string; the key and box were delivered to me. I don't know whether the box contained any papers except those belonging to Sam Yick. All the papers in it were in Chinese consisting of accounts and books and different kinds of papers and letters.

(Testimony of Charles E. Kruse.)

I marked the letters that I took from this box with my name or initial.

Q. (By Mr. STONE.) Will you go through that list and those that you are able to identify, will you lay them out here on the desk? (Handing a bunch of papers to witness.) First, I will ask you to examine this instrument (handing document to witness) and state whether or not you found that in that box. A. Yes, sir.

Mr. STONE.—We offer this (document last mentioned) in evidence, if your Honor please, as Government's Exhibit No. 11.

(The document last mentioned was received in evidence and filed as U. S. Exhibit No. 11, and was read to the jury, and is as follows:)

**[United States Exhibit No. 11—Receipt Dated
Bakersfield, September 27, 1911, E. P. Morse to
Sam Yick.]**

“Department of Commerce and Labor,
Bakersfield, Cal., Sept. 27, 1911.

Received from Sam Yick \$60.00, this money to be sent to Inspector Bernard at San Diego, Cal., for the purpose of obtaining the release of the three Chinese now under arrest there and for their return to Mexico or if this is not possible it is [136] understood that the money is to be returned to Sam Yick. This money was delivered by Chang Kim.

E. P. MORSE.”

(Testimony of Charles E. Kruse.)

(Stamped across top of paper with rubber stamp as follows:)

“U. S. Immigration Service
Commerce and Labor,
Received
Sept. 28, 1911
Port of Los Angeles.”

Q. You never saw the duplicate of this or carbon copy of it? A. Not that I know of; no, sir.

Mr. MOTT.—That is the original of the document that was introduced earlier in the trial?

Mr. STONE.—Yes, that was given to Jung Kim.

A. (Answer by witness.) It will take me a little time to go through this and make sure.

By Mr. STONE.—Yes, take your time and get those that you got out of this box.

A. There is an envelope and couple of pictures. The envelope I found, but I can't say about the pictures. They haven't got my name on them.

Mr. DOCKWEILER.—Of course, we don't know the contents of these letters.

Mr. STONE.—I expect to submit them to counsel.

Mr. DOCKWEILER.—We make no objection to the first letter because that was a mere duplicate of the original.

Mr. STONE.—I expect to submit them to counsel.

Mr. DOCKWEILER.—I desire now, your Honor, to make a demand '[137]' upon the Government of the United States represented here by its attorneys, and to make a demand upon the witness, for all personal effects in the way of papers and writings, not

(Testimony of Charles E. Kruse.)

evidences of indebtedness, not connected therewith, belonging to the defendant Sam Yick. Why, your Honor—

Mr. STONE.—We will readily comply with the demand. You need not argue it.

The COURT.—Probably you do not understand the purport of Mr. Dockweiler's suggestion as I do. He wants them returned absolutely to the possession of the defendant.

Mr. STONE.—I mean for inspections, of course.

Mr. DOCKWEILER.—Oh, no.

Mr. STONE.—Then I do not understand the demand.

The COURT.—The purpose is to deprive you of the use of them as evidence.

Mr. DOCKWEILER.—That is it exactly.

Mr. STONE.—Well, I will not agree to that.

The COURT.—I have seen nothing but newspaper reports of a case decided by the Supreme Court in which a demand for certain papers unlawfully taken from the possession of the defendant was made before the trial and the Supreme Court held that in the absence of that demand there was no basis, that it constituted no ground for reversal. Is that the idea?

The COURT.—Do you want, as far as you can, to comply with that ruling? Is that your idea?

Mr. DOCKWEILER.—Yes, your Honor.

The COURT.—That ruling, I understand, is based on the fact that the papers were taken forcibly from the possession of the defendant. I do not

(Testimony of Charles E. Kruse.)

understand it has any application to a case of this kind, where the papers came into the possession of the witness lawfully.

Q. (By Mr. DOCKWEILER.) By the way, Mr. Witness, what is [138] the status of the bankruptcy proceedings?

A. I have been told by the attorneys for the banking department that I was discharged, although I have never received any official notice from the referee in bankruptcy. I have not done anything with the case for quite a while.

Q. When were the bankruptcy proceedings initiated?

A. Along—I don't remember the exact date—I didn't pay much attention—

Q. Approximately.

A. Approximately the latter part of 1911—October or November. The latter part of the year. I started for the banking department in August, and it was a month or probably two months before I was appointed, and I didn't make any note of the date.

Q. Has the defendant been discharged in bankruptcy? A. That I don't know.

The COURT.—I presume the records of the court will show that.

Q. (By Mr. DOCKWEILER.) The records in that bankruptcy proceeding are on file in the office of this court or at Fresno?

A. No, at Bakersfield.

Q. (By the COURT.) Your connection with it was in Bakersfield?

(Testimony of Charles E. Kruse.)

A. Yes. I don't know anything outside of that.

The COURT.—I don't know of any such case pending here, but the clerk informs me that it was a bankruptcy case.

Do you understand now why that demand is made?

Mr. STONE.—Yes, I understand, your Honor, and I did not mean to be so broad in my statement. I did not mean to be so literal with counsel. I simply wanted to state that he was more than welcome to examine any paper there, but I didn't want to turn it over to him. I think he has no right to them under the Wells case, because I understand your Honor is eminently correct there. [139] It is where the papers were procured unlawfully in the first instance. The case was based upon that document.

Q. (By the COURT.) How about that chest of books containing these papers coming into your possession?

A. I got it from the Sheriff's office. It seems that, as near as I can remember, he was attached before he went into bankruptcy, and the sheriff had charge of all of his effects, his store and everything else, and when I was appointed trustee I got an order, as near as I remember, from the referee in bankruptcy to take charge, and I heard or found out that there was a box that the sheriff's office had gotten out of his little safe in the store and I went over and got that on this order.

Mr. STONE.—I have the Sheriff here, but he is out now, and will connect it up to show how the

(Testimony of Charles E. Kruse.)

papers were gotten; but I haven't offered the papers yet, anyway. The objection came, really, too soon.

The COURT.—Very well; I will allow you to identify the papers and then you can present your question later.

Mr. DOCKWEILER.—I understand from the clerk that there was an involuntary proceeding in bankruptcy.

The COURT.—I don't know what it was. You may get that fact into the record if you want to.

Mr. DOCKWEILER.—Well, Mr. Scott, the clerk, thinks it was an involuntary proceeding; but I don't want to make it more favorable to our side than what the facts would justify.

The COURT.—Now, keep those papers you identify together so that you will not have to go over them again.

(Files in bankruptcy proceeding examined by clerk.)

The WITNESS.—Do you want me to leave those out that I cannot identify?

Mr. STONE.—Yes, those that you cannot identify I want you to leave out. [140]

Mr. DOCKWEILER.—I find this is a voluntary petition in bankruptcy, your Honor, and the defendant was discharged—or, rather, Sam Yick, Tin Sue, Jung Chong and Chung Kee were each of them discharged on May 18, 1912. I note from the papers also that Mr. Kruse filed his final account on November 27, 1912, which final account, after the accounting for receipts and disbursements, shows no

(Testimony of Charles E. Kruse.)

assets still remaining on hand; and Mr. Scott has also shown me the record in the case which recites November 27, 1912, "Trustee C. E. Kruse files his report and final account as trustee showing the amount of money received," etc., and then, "There being no more assets of the estate of said bankrupts, their estate is declared closed and certified copy of proceedings mailed to the clerk of the District Court of the United States, Los Angeles. Thomas Scott, Referee." So that was closed November 27, 1912. Now, Mr. Kruse had no right or authority to take this man's private papers, whatever they may consist of, letters or what not.

The COURT.—I will have these papers (hands papers to witness) identified as far as they can be, and then put in such shape that you can have them with the clerk of the court; it being admitted or stipulated that the witness identifies them here now, if that is satisfactory.

Mr. DOCKWEILER.—Yes.

The COURT.—Then I will hear from you as to their competency when they are offered.

Mr. DOCKWEILER.—Yes.

The WITNESS.—I cannot identify those (handing papers to Mr. Stone).

Q. (By Mr. STONE.) Here is one I have noticed—examine that again (handing paper back to witness).

A. Yes, that is right. [141]

Q. Are these the papers that you can identify as having been taken from the tin box? A. Yes.

(Testimony of Charles E. Kruse.)

The COURT.—Now, those are the papers that this witness identifies as having been taken out of the box he got from the Sheriff. I suggest that they be put in some convenient form and given to the clerk and the clerk may put them in an envelope and seal them and hold them for future reference, unless you want to examine them in the meantime.

Mr. MOTT.—Yes.

The COURT.—You may select those you want to introduce in evidence.

Mr. STONE.—These are the ones (exhibiting papers). I want to identify them a little further.

Q. From whom did you get the box out of which you got these papers?

A. From Mr. Badger, to the best of my recollection.

Q. That is the gentleman sitting back here?

A. Yes, sir. I think he is. I couldn't swear positively.

Q. (By the COURT.) Who was Mr. Badger?

A. The deputy sheriff at that time.

Mr. STONE.—That is all.

Cross-examination, by Mr. DOCKWEILER.

Q. Where have you got the balance of the papers?

A. They are in Bakersfield. I left them in the vault when I left the banking department. The thing was not wound up, and to the best of my knowledge they are still there.

Q. What do the papers consist of—letters, correspondence?

A. Letters, correspondence, and some books, ap-

(Testimony of Charles E. Kruse.)

parently account-books or something, they looked to me like, and things of that kind; papers. The box was chuck full. [142]

Q. Well, aren't those the property of the bankrupts, those papers?

A. I suppose they are, but I have never been notified that I have been discharged, as I have said, and I just left the thing rest along.

Q. I see the record here shows that you were discharged on 27th of November, 1912, and account approved.

A. I have been told that, but I have never received official notice.

Mr. DOCKWEILER.—That is all.

Mr. STONE.—That is all.

Q. (By the COURT.) You were the trustee in bankruptcy, were you, Mr. Kruse? A. Yes.

Q. And these books came to you in the exercise of your office as trustee?

A. Trying to locate some property to get some money on.

Q. You got them from the deputy sheriff?

A. I found them in the sheriff's office and delivered them to Mr. Badger.

[Testimony of C. K. Badger, for the Government.]

C. K. BADGER, a witness called on behalf of the Government, having been first duly sworn, testifies as follows:

Direct Examination, by Mr. STONE.

My name is C. K. Badger. I have lived in Bakers-

(Testimony of C. K. Badger.)

field off and on since 1896. In 1911, I was Chief Deputy Sheriff of Kern County. In my capacity as such Chief Deputy Sheriff, sometime in September, October or November, 1911, I levied an attachment on Sam Yick's store in the case of McDonald vs. Sam Yick, and in levying that attachment I came into possession of a black square box, an ordinary treasury box; the box had letters and accounts and various articles in it, which I didn't examine closely, and some money. [143] I locked all these things up and took them to the sheriff's office. I opened the box but left all the papers in it that I found in it. I held it at the sheriff's office for probably six weeks and turned it over to Mr. Kruse when he was appointed trustee. It seems to me that when Mr. Kruse was appointed trustee of the bankrupt estate, he presented to me an order for this box and I took his receipt and turned it over to him.

It seems to me that it was in September or October, 1911; at any rate, as soon as the attachment was levied I took this box out of Sam Yick's store on Eighteenth Street. Neither Sam Yick nor anybody representing him ever made a demand on me for the return of it.

Cross-examination, by Mr. DOCKWEILER.

I took possession of this box containing these papers under and by virtue of my authority as deputy sheriff and in pursuance of the command of the writ of attachment against Sam Yick; and when I turned this box, containing these papers, over to Mr. Kruse, I did so in compliance with an order

(Testimony of A. G. Bernard.)

made upon me by Mr. Kruse, as trustee in bankruptcy in the Sam Yick matter in the performance of my duty as an officer of the law.

(Here, after some discussion, the papers taken out of the tin box and identified by Mr. Kruse were handed to the clerk of the court and marked U. S. Exhibit No. 12-A, 12-B, *et cetera*, a letter of the alphabet being appended to each document after the No. 12 for the purposes of identification; and it was stipulated that these letters might be taken by counsel for the defendants for the purpose of examination, to be returned later on to the United States District Attorney and the clerk of the court.

**[Testimony of Edward P. Morse for the Government
(Recalled—Cross-examination).]**

EDWARD P. MORSE, being called for further cross-examination, testified as follows:

Cross-examination (Resumed [144] by Mr.
DOCKWEILER.

Q. Mr. Morse, did you, or did you not, on October the 14th, 1911, or about that time, at the residence or store of the defendant Sam Yick, at Bakersfield, Kern County, California, at the hour of about seven o'clock in the morning thereof, receive from Sam Yick and his wife, or either of them, the sum of one hundred dollars which you asked for as a loan?

A. No, sir, I did not; neither that time nor any other time.

**[Testimony of Charles E. Kruse for the Government
(Recalled).]**

CHARLES E. KRUSE, a witness recalled on behalf of the Government, testified as follows:

Direct Examination, by Mr. STONE.

Q. I wish you would examine this letter and state whether or not that is one of the letters taken from the defendant's box (handing letter to witness).

A. Yes, sir; it is.

Mr. STONE.—That is all. This is offered in evidence.

(The letter last above referred to was filed as U. S. Exhibit 12-M for identification.)

Cross-examination, by Mr. DOCKWEILER.

At the time I received the box containing these letters from the sheriff of Kern County, I had an order from the referee in bankruptcy to get the box and I made a demand upon the sheriff of Kern County for the same, not as an individual, but as trustee in bankruptcy in the matter of Sam Yick.

Q. At whose suggestion or in what manner did it occur to you that you send to the immigration office private papers not belonging to the assets of the estate, and belonging to the defendant? [145]

A. I can explain that.

The COURT.—Just explain it.

A. It was reported around after I had taken charge of the store, or the merchandise that was in it—I tried to locate some real property and couldn't find anything on the records in the recording office, and it was reported around generally that Sam Yick

(Testimony of Charles E. Kruse.)

was pretty well fixed, and when I got this box there were a lot of papers in there, and books like—they looked like accounts, and one thing and another—and I thought there might be something in that, all in Chinese characters, that would give me a line on some real property or something that I could get at and get some money on. I couldn't find anybody to interpret them around Bakersfield that I knew of, and I had heard then about the immigration officer being there, and I got acquainted with him; I understood he had an interpreter, and I asked him if he would, the next time there was an interpreter in town, let him come over to the bank where I was and look over those papers and see if I could locate anything in the line of property or values that I could get any money out of, and he did that and ran across these letters.

Q. How did you submit the papers?

A. Charlie Levy, I believe was the interpreter's name.

Q. Charlie Levy?

A. I think that was the name; a Chinaman.

Q. Where did he live?

A. I don't know. He came from Los Angeles, I think.

Q. He belonged to the immigration service?

A. Yes. He was from up in Connell's office, I think.

Q. And didn't he examine the papers at Bakersfield?

A. Yes, sir, right in the bank, under my super-

(Testimony of Charles E. Kruse.)

vision. They never left my hands at all. He stood right at the desk and— [146]

Q. And after examining the papers what became of them next following?

A. I kept them and put them right back in the tin box and locked it up and put it back in the vault.

Q. Have you always kept them?

A. No, sir. After that I had a subpoena issued on me from the district attorney's office to bring certain paper down, or a whole bunch of them, and I brought a whole lot of those letters down and they told me to go up to Connell's office, and they picked out certain letters and had me mark them and number them, and they took them away from me and kept them.

Q. Now, you had a subpoena issued. Where is that subpoena? A. Oh, I don't know now.

Q. Was it a grand jury subpoena?

A. I don't remember. I was ordered to come.—

Q. Have you got the paper?

A. I don't think so. That is over two years ago. I may have it.

Q. Or was it a mere request or letter from the district attorney's office?

A. No, it was an order to come down here, as near as I know or remember.

Q. How long ago was that order issued?

A. That was I think in the latter part of November or December, 1911.

Q. And you came down? A. I did.

Q. And what papers did you bring down?

(Testimony of Charles E. Kruse.)

A. I brought down quite a few letters and other papers.

Q. Other papers besides those that have been handled here in the courtroom by you?

A. Yes, there were some others there that I took back with [147] me and put back in the box.

Q. After getting here what did you do with the papers? A. What papers?

Q. The papers that you brought down. You didn't take them all back?

A. I took them all to Mr. Connell's office.

Q. And then did you leave them? A. I did.

Q. How many papers did you leave at Connell's office?

A. I don't remember that. Eleven or twelve or something like that.

Q. By virtue of what demand or by virtue of what right did Mr. Connell claim to you that he had a right to retain private papers belonging to somebody else that temporarily happened to be in your custody?

A. Well, I don't know as he mentioned any right. I suppose that the district attorney's office ordered me to go up there with those papers and to deliver them to Connell, as near as I remember, what he wanted of them. I supposed that was enough; I didn't make any inquiry at all.

Q. Now, you say you supposed. Did the district attorney tell you to do that or did he not? Or did you, as a matter of fact, through convenience, and for the purposes of accommodation, leave the papers with the immigration office?

(Testimony of Charles E. Kruse.)

A. No, I was under the impression that they were entitled to them. I didn't do it for any matter of accommodation or anything like that.

Q. Then, as I understand, whatever papers you left with the immigration officer you did so by virtue of the command of superior authority in the person, as you understood it, of a representative of the district attorney's office? A. Yes, sir. [148]

Q. The United States Attorney's office?

A. Yes, sir; that was my understanding, absolutely.

Q. Had this demand not been made upon you, you still would have retained the papers?

Mr. STONE.—We object to any further examination on that. It is a collateral matter, and it is a question of law as to the competency of these letters.

The COURT.—Well, I will not limit the cross-examination, although he seems to have elicited already all the facts with reference to that matter. Go on.

(Last question read.)

The COURT.—Answer the question.

A. I think so, yes.

Q. You still have some papers in your possession belonging to the defendants?

A. Well, they are in the possession of the banking department; I haven't them; because they have a vault to take care of them and I have no place to keep them. I have not been in the banking department since June, 1912.

Q. They are in the possession of the bank examiner? A. The state banking department.

(Testimony of Charles E. Kruse.)

Q. Have you any connection with the State bank examiner?

A. Not at present, no. I just left them there for safe keeping.

Q. Then they are under your control?

A. As far as I know, yes.

Q. Will you please redeliver those to the defendant whatever papers you have belonging to him?

A. I will if it is proper.

After the witness, Kruse, was excused the following took place.

By Mr. MOTT.—The translation of these letters is substantially [149] correct (referring to letters proposed to be offered by the Government) and we will stipulate that with the exception of letter 14—there is one there in which the father should be added and a son should be added.

Mr. STONE.—That is the one that you called my attention to yesterday. I will stipulate to that. We offer in evidence one of the letters dated April 13, 1911.

Mr. DOCKWEILER.—Now, it is understood, your Honor, that the demand made by us the other day for all these letters still persists and we still insist upon it.

The COURT.—I understand that to be the case.

Mr. DOCKWEILER.—And that counsel for the Government turn over to the defendant those letters in his possession which we claim went into the possession of the district attorney through unreasonable and unlawful methods.

(Testimony of Charles E. Kruse.)

(Here there was discussion between Court and counsel as to the admissibility of the letters.)

It was stipulated between counsel for the Government and counsel for the defendants that the writ of attachment under and by virtue of which the sheriff of Kern County seized the box containing all of these letters, was the regular form of writ of attachment in use in the Superior Court of the various counties throughout the state of California. The writ reads as follows:

*In the Superior Court of the State of California, in
and for the County of Los Angeles.*

_____,

Plaintiff,

vs.

_____,

Defendant.

Writ of Attachment.

The People of the State of California to the Sheriff
of the County of Los Angeles, Greeting:

Whereas, the above-entitled action was commenced in the Superior Court of the County of Los Angeles by the plaintiff in the said action to recover from the Defendant _____ in said action the sum of _____ Dollars, _____ of the United States, besides, interest at the [150] rate of _____ per cent, per _____ from the _____ day of _____, 191—, and costs of suit; and the necessary affidavit and undertaking herein having been filed as required by law.

(Testimony of Charles E. Kruse.)

Now, we do therefore command you, the said Sheriff, that you attach and safely keep all property of the said defendant ——— within your said County not exempt from execution, or so much thereof as may be sufficient to satisfy the said Plaintiff's demand, as above mentioned, unless the said defendant give you security, by an undertaking of at least two sufficient sureties in an amount sufficient to satisfy such demand, besides costs, or in an amount equal to the value of the property which has been or is about to be attached, in which case you will take such undertaking, and hereof make due and legal service and return.

Witness Honorable ———, Judge of the Superior Court, this ———, day of ———, 191—.

Attest my hand and the seal of said Court, the day and year last above written.

_____,
Clerk,
By _____,
Deputy.

It was stipulated that the above form of writ be a part of the record in this case.

By Mr. STONE. Now, we want to offer this letter in evidence dated the third month, sixteenth day—it doesn't show the year.

(Referring to U. S. Exhibit 12-M for identification.)

Mr. DOCKWEILER.—We object to the introduction in evidence of this document on the ground that the same is incompetent, irrelevant and immaterial,

(Testimony of Charles E. Kruse.)

and no foundation laid therefor, and that it is purely hearsay. Here is a letter addressed apparently to Mr. Deang Coy, signed by Quan Ching Lim; that is the opening or beginning of the letter is to Mr. Deang Coy, and it is signed Quan Ching Lim, and, at the end is the following writing: "To Sam Yick Company, Riverside, third month, sixteenth day" There is nothing upon the face of this document whatever which would indicate any connection with the charge referred to in the indictment.

(Here there followed further argument between Court and counsel on the question of the demand by the defendants for the return of all the papers taken by the Government from Mr. Kruse, trustee in bankruptcy.)

It was stipulated between counsel for the Government and [151] counsel for the defendants that the writ of attachment under which these papers were seized by the sheriff of Kern County, was issued in a case in which one McDonald was plaintiff, and the defendant, Sam Yick, personally, was a defendant.)

The COURT.—Now, as to the demand for the restoration of the papers, that is refused.

Mr. DOCKWEILER.—To which we except.

The COURT.—Now, you are ready for the specific objection, is that in order now?

Mr. DOCKWEILER.—Yes.

The COURT.—Are these translations the same?

Mr. STONE.—Yes, they are duplicates. That is all.

The COURT.—This is dated April 13, 1911.

(Testimony of Charles E. Kruse.)

Mr. DOCKWEILER.—Now, your Honor, it is not in evidence that the Deang Coy name in this letter and to whom the letter was sent and addressed was the defendant Sam Yick or the defendant Jung Kim.

The COURT.—That is not the theory on which it is put in. It is put in on the theory *sole* that it was found in the possession of the defendant.

Mr. STONE.—If your Honor will permit, I can make my contention so that Mr. Dockweiler may then be in a position to better understand our view of it. In a conversation which Sam Yick had with Mr. Morse on May the 8th, 1911, it was stated that he (Sam Yick) then had letters which related to fixing certificates. Our next point is that the letter says to deliver to Sam Yick Company and the letters were found intact in Sam Yick's private box. The letter corroborates Mr. Morse in that he says Sam Yick told him that he had letters from Chinese in Mexico that wanted to come in. It is part of the common design and scheme charged in the indictment, and which we are attempting to show.

Mr. DOCKWEILER.—Now, there is nothing in the record indicating [152] that he (Sam Yick) had any communication at that time from Ensenada, Mexico, or from any point in Lower California, from which it is claimed that these Chinamen came. Now, here is a letter, your Honor,—it is immaterial, so far as we are concerned, whether it was found among the papers of this store when it was attached, or among the papers of Sam Yick—here is a letter upon

(Testimony of Charles E. Kruse.)

the face of it written to Deang Coy, who is absolutely unknown to this record. Until this morning we never heard of it. He writes a letter to Deang Coy, an entirely different personage from these defendants. Who knows but that these papers were turned over to Sam Yick later on by Deang Coy and Deang Coy had been guilty of some criminal conduct or some offense or contemplated offense against the United States. Because somebody else does something can our defendant in this case be successfully prosecuted upon evidence made by other people?

(Citing authorities.)

The COURT.—Yes, an anonymous letter does not attach any guilt to the defendant. But that is quite different from this case. It is not an unfair inference that this letter deals with matters involved at the present trial, and the possession of the letter by the defendant connects him sufficiently with it to make it competent. That is the view I take of it.

Mr. DOCKWEILER.—(Citing from authorities.) Here is a letter written in April. The conversation with Mr. Morse was in May. There is no evidence offered by the Government as to when Sam Yick secured these letters. This particular letter, written by some man disconnected with this trial, never referred to herein, to a man entirely different from any of the defendants herein, might have been secured or given for safe keeping, or turned over to Sam Yick, say in October. It might have been turned over to him a day before the attachment. Shall the presumption of date and the probability of receipt apply

(Testimony of Charles E. Kruse.)

to Sam Yick, when Sam Yick [153], was not the addressee even of the letter. * * * Why has not the Government made effort to determine who the writer is and who the addressee of the letter was, and from what point the letter was transmitted. If it had been transmitted from Juraez, then, probably, as your Honor suggests, it might be appropriate as connecting up the conversation with Morse, that he had letters from Juarez. Nowhere does it appear, your Honor, that Sam Yick had letters from Lower California, from Ensenada or from Tia Juana. Now, the mere fact that subsequently he received those letters, cannot be used to strengthen the statement of Morse. As I understand, these letters are introduced for the purpose of illustrating the truth of Morse's testimony.

Mr. STONE.—Yes.

Mr. DOCKWEILER.—As to when Sam Yick received this letter, no inference can be indulged in as to receipt in due course of mail. Can it be said that the Government should be permitted to use a letter of this kind in substantiation of the theory of corroboration when the letter is otherwise unconnected with the defendant except by the fact that it was discovered in a box belonging to the defendant, that box being secured in November, 1911, the letter having been apparently written in April, 1911 * * * ? The Government in order to introduce that letter must show by some evidence that that letter was in the possession of Sam Yick at the time or about the time when he talked to Morse; and unless the Gov-

ernment shows that directly or by fair inference, that letter is incompetent; and no inference can be drawn from the date of the letter, because that letter not being addressed to Sam Yick, there is no presumption that Sam Yick received it soon after April 16, 1911, or before his talk with Morse in May.

Mr. STONE.—We take the position then that the objection to these letters on the part of counsel goes to the weight of this evidence and not to its admissibility, that their objection [154] is all to the weight and not to the admissibility of the evidence. It is for the jury to say. After Mr. Morse has testified that “Sam Yick said to me, ‘I have got people down there; I have had letters from them,’” and after these letters were found in his possession, showing a date previous to the time he had the conversation, it shows that Sam Yick himself made the advance, for long previous to the conversation Sam Yick had knowledge of Chinese smuggling.

The COURT.—(Examining letter:) I think this letter is competent for the reasons already indicated, that it certainly goes to corroborate the testimony of Morse as to the conversation that he had with Sam Yick, and also it throws light upon the issue as to whether or not the first approach in regard to the smuggling came from Sam Yick or Morse. The letter, of course, does not prove the truth of the statements contained in it, but it is only admissible in so far as it tends to show the knowledge that Sam Yick had, confirming the statements that he made to

Morse. I shall overrule the objection to the competency of this letter.

Mr. DOCKWEILER.—Exception.

(Here followed some further argument as to the admissibility of the letter.)

The COURT.—I will overrule the objection.

Mr. DOCKWEILER.—Exception. Now, as each letter is offered I suppose we will have to make an objection.

The COURT.—Did you want to interpose an objection to each one?

Mr. DOCKWEILER.—Yes.

Mr. STONE.—We can stipulate the same to each and every one if you wish.

The COURT.—Probably it would be best to follow each letter up with an objection.

Mr. STONE.—I will renew the offer of the letter dated April 13, 1911. [155]

The COURT.—Yes. It has been objected to and the objection is overruled.

Mr. DOCKWEILER.—I want my objection to go severally, on behalf of each defendant, your Honor. I would like to have that understood. I am afraid I said, "The defendants object." Each of them severally objects. The defendants and each of them object to the introduction of the letter on the grounds heretofore stated.

The COURT.—Very well.

Here the letter last above mentioned was filed as U. S. Exhibit 12-J, and was read to the jury, and is as follows:

**[United States Exhibit No. 12-J—Letter from Quan
Ching Lim to Deang Coy.]**

“Mr. Deang Coy :

This day I received a letter from Jung Qwoon Toh of Ensenada, saying that there is a countryman at your place who desires to come to the United States, and his name is Deang Jock Toh. He states also that you are willing to issue for him a letter of guaranty for his expenses. We know not whether that is true. If so, please notify me at once, and have the letter of guaranty ready, then I get him started immediately, and guarantee to get him to your place.

It seems that it is extremely dangerous at this time, wouldn't you prefer have him taken direct to San Francisco, as that will be better, and prevent from getting into their hands. Our company do not wish to see any of our countrymen being caught by the immigration officers. First, a lot of money being wasted ; second, lost so much time and suffer a great deal of inconvenience. On your receipt of this letter, please think this matter over, and hope that you will consent to do as I proposed.

Please try to find a reliable store in San Francisco, and have them arrange the letter of guaranty with Fong Yeuk Jew of Sung Chung Lung store, then we can act at once. The price is \$435.00. If it was for other people, our company would ask the full amount of \$450.00. So you see we are making this little reduction just to accommodate you.

Please write and let us know what you will do.

Address your letter according to the one given you in English in this letter: Kwong Lun Sing, P. O. Box 1195, Riverside Calif.

(Signed) QUAN CHING LIM.

To Sam Yick Company, Riverside, 3rd month, 16th day.

Apr. 13, 1911.

I hereby certify that the above is a correct translation of the letter written in Chinese, marked #10, *Kluse*.

LEE PARK LIM,

Chinese Interpreter." [156]

Mr. STONE.—I next offer in evidence the letter which has been marked for identification as U. S. Exhibit 12-L.

The COURT.—The Chinese original, I understand, is attached to the translation and you will read the letter.

Mr. STONE.—Yes, I am reading the translation. I understand we have stipulated as to the correctness of the translation, except perhaps in one or two instances, which, if counsel will call my attention to, I will stipulate further concerning.

Mr. DOCKWEILER.—I will form a stipulation now that can be entered as to each of them.

Mr. STONE.—Yes.

Mr. DOCKWEILER.—Defendants and each of them object to the introduction of the proposed letter upon the ground that the same is incompetent, irrelevant and immaterial, and no proper foundation

therefor has been laid; and upon the further ground that the letters appear to be addressed to a party other than either of the defendants in this case, and by party named Deang Jock Toh, who is also unconnected so far as the record is concerned with either of the defendants or with any of the three Chinamen named in the indictment as having been assisted over; and upon the further ground that the letter as to each of the defendants, is hearsay.

The COURT.—One of the letters is addressed to the Sam Yick Company, is it not?

Mr. DOCKWEILER.—It is addressed to the Sam Yick Company in Riverside.

The COURT.—Well, that last objection, of course, could only apply to this first letter because he is not specifically named as addressee.

Mr. DOCKWEILER.—Yes.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception. [157]

The COURT.—Now, that is the second letter. What objection do you wish to make to the second?

Mr. DOCKWEILER.—That is the second? We have already interposed our objection to the other.

(Here the letter in question was received in evidence and filed as U. S. Exhibit No. 12-L, and read to the jury by Mr. Stone, and is as follows:)

**[United States Exhibit No. 12-L—Letter from Jock
Toh to Jock Coy.]**

“Brother Jock Coy:

It has been several years since we have parted from each other. I hope this will find you prosperous and have made plenty of money.

I have heard that there is a man from the Yin Ping District, named Ngaw Doy Wong, his marriage name is Jung Kwoon Toh, who says that So Sam Lin has the safest method in smuggling people over. So I want you to write a letter of guaranty at once, for I believe that I will have opportunity to go on the next trip. Delay might mean that I could not go with him when he comes back, and need more money for subsistence, and not able to get a letter of guaranty for my expenses.

My older brother has arrived at Ensenada on the 10th day of the 3rd month. You need not worry about him.

Jung Kwoon Toh says that Sam Lin is an experienced man, and has been in the smuggling business for the past thirty years.

On your receipt of this letter, answer immediately, so I will not have to wait. I would like to borrow \$15.00 American money from you for subsistence.

(Signed) JOCK TOH.

Stamped—DEANG JOCK TOH.

Dated Sun. 3rd month, 10th day (April 7, 1911).

I hereby certify that the above is a correct transla-

tion of the letter written in Chinese marked; #13, *Kluse*.

LEE PARK LIM,
Chinese Interpreter."

The COURT.—When is that supposed to have been written?

Mr. STONE.—It does not give the address at all.

The COURT.—And there is no envelope accompanying it?

Mr. STONE.—No envelope at all. [158]

Mr. STONE.—I next offer in evidence letter marked U. S. Exhibit 12-K, which I will read.

Mr. DOCKWEILER.—Defendants and each of them object to the introduction of the letter now offered by the district attorney upon the ground that the same is incompetent, irrelevant and immaterial, no proper foundation having been laid therefor, and that it is hearsay; and upon the further ground that the letter appears to be addressed to Jock Coy by the man by the name of Deang Jock Toh, neither of whom are connected with this case in any way.

The COURT.—Is this offered for the same purposes as the first and second letters?

Mr. STONE.—Yes.

The COURT.—In that it refers to one Chinaman that wants to come over. Is that the idea in this second letter?

Mr. STONE.—Yes.

The COURT.—Very well. The objection is overruled.

Mr. DOCKWEILER.—Exception.

(Here the letter referred to was received in evidence and filed as U. S. Exhibit No. 12-K, and read to the jury by Mr. Stone, and is as follows:)

**[United States Exhibit No. 12-K—Letter from
Deang Jock Toh to Jock Coy.]**

“Brother Jock Coy:

I hope that this will find you well and prosperous, and successful in all your undertakings.

On the 10th of the third month I arrived at Ensenada, and went to live in one of the small houses near the Quong Shing Lung store. While living there I have investigated and inquired of the Chinese people here about the Quong Shing Lung store. They told me that that store has no way of getting people away. They have of our countrymen in their place, have been awaiting for the last six or seven months, still they could not send them away.

Yesterday I found out from Ngan Doy Wong and Jung Qwoon Toh that there is a man named So Mun Guey who can undertake to guarantee one over. He has Quan Ting (Ching) Lim of Los Angeles to take care of his men. On your receipt of this letter please try to locate Mr. Quan Ting Lim and consult with him. Give the letter of guaranty to him, then I can reach your place without difficulty. Furthermore, the Quong Lun Shing store of Riverside had had some men started from his place for Bakersfield. At present I heard that they are making strict inspections for certificates, and now they are going to

San Francisco, the price is \$450.00, if to Bakersfield, \$400. [159]

On your receipt of this —— letter of guaranty, so as to enable me to start. Also send me some money for food, and should you have the letter of guaranty ready, be sure and send me \$20 or more in gold, then I will start at once. Be sure and give this matter your attention, and get me over to your place, then I and my family shall be grateful to you.

Please answer this letter. Should you send me any money please send it to the address given you, that will reach me with—difficulty.

Stamped—DEANG JOCK TOH.

Dated Sun Ho i 3rd month, 17th day (April 14, 1911).

I hereby certify that the above is a correct translation of the letter written in Chinese marked: #12, *Kluse*.

LEE PUNK LIM,
Chinese Interpreter.

Mr. STONE.—I next offer in evidence as U. S. Exhibit No. 12-L, letter dated June 4, 1911, addressed to Sam Yick Kee Company, Postoffice Box 363, Bakersfield, Cal., U. S. A.; that is the address on the envelope.

Mr. MOTT.—That is the letter that should have “father” accompanying the name of the person it is addressed to, Jock Coy. It should read “Jock Coy, father” and right after that at the bottom of the letter “awaiting your reply, your son.” (The letter was accordingly amended by Mr. Stone.)

Mr. DOCKWEILER.—We object to the introduction in evidence of this proposed letter as incompetent, irrelevant and immaterial, no proper foundation laid therefor, and on the ground that it is hearsay; and upon the further ground that it appears to have been addressed to a man by the name of Jock Coy and signed by a man by the name of Jung Foo Yung, and then the envelope being marked "Please deliver to Deang Jock Toh." neither of the parties named in the letter being in any way connected with the defendants in this case or with the parties named in the indictment, those parties being Dock Yook, See Chew and Wah Sing.

The COURT.—There seems to be some difference in the date. That was in June.

Mr. STONE.—Yes. June 14, 1911. The interview with Mr. Morse testified to, was May 8, 1911.

The COURT.—This letter seems to have been dated after that.

Mr. STONE.—Yes, of course, the transactions continued on [160] until away after the dates alleged in these letters. This is addressed to Sam Yick at Bakersfield. The interviews between Sam Yick and Morse extended to May the 8th to September. These papers are offered for the purpose of showing his (Sam Yick's) guilty knowledge of his scheme or design to smuggle Chinese in. It was offered for that further purpose this morning, and is offered now for the purpose of showing guilty knowledge of the plan or scheme which was talked over between him and Morse. Not merely in corroboration of

Morse's testimony as to which made the approach about the smuggling, but as showing the participation of this defendant in it and his guilty knowledge of the plan and design of smuggling.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception.

(Here the letter referred to was received in evidence and filed as U. S. Exhibit No. 12-I, read to the jury by Mr. Stone, and is as follows:)

[United States Exhibit No. 12-I—Letter from Jeung Foo On to Jock Coy.]

Jock Coy Father:

I sent you a letter some time ago, and presume that you have received it ere this time.

I am sending you now six photographs. Kindly see that you receive same. I had to borrow the money from my tribal cousins here, in order to have those photographs made. I have not a cent in my possession, besides owing people here for my board and other expenses. On your receipt of this letter, please try to send me some money in order to pay for my urgent needs. Please do not delay. My height is about 5 ft. 5½ in., that was taken at Hong Kong. You can use those photographs for making out my papers.

There is a tribal cousin here who also would like to have a paper made for him to enable him to come over. Please advise me what will be the price of merchant's paper and native born paper, and guarantee a person safely over to the United States, and go by what route. Please tell me all about it.

This man I have reference to belongs to Hoi Ping district, and his name is Jeung Shi Poy, age about 20 years or more. I believe that he is little too old for to get a native born paper. His uncle is at Los Angeles, in the Wah Mee Company, and his name is Jeung Yik Tong, this is for your information.

I am waiting for your reply.

Your Son.

Stamped—JEUNG FOO ON.

Dated Sun Ho i 5th month, 9th day (June 4th, 1911).

Addressed on envelope: Please deliver to Deang Jock Coy.

I hereby certify that the above are correct translations of the letter and envelope written in Chinese marked: #14, *Kluse*.

LEE PARK LIM,

Chinese Interpreter. [161]

Mr. DOCKWEILER.—Your Honor will observe this letter purports to come from Sonora. That is a new point geographically. As I remember Morse's statements, he referred to the fact that Sam Yick had photographs of men in Ensenada and Lower California. Here is a letter from Sonora, Mexico. That is a good many hundred miles off.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception.

Mr. STONE.—I next offer in evidence letter dated June 1, 1911, marked U. S. Exhibit No. 12-D.

Mr. DOCKWEILER.—We make the same objection.

The COURT.—Same ruling.

Mr. DOCKWEILER.—Exception. It will be understood that so far as names are concerned the names referred to in the letter will be the names in the objection.

Mr. STONE.—It is so stipulated.

(Here the letter referred to was received in evidence and filed as U. S. Exhibit No. 12-D, and read to the jury by Mr. Stone, and is as follows:)

[United States Exhibit No. 12-D—Letter from Jeung Jeuck Bing to Jock Gim and Jock Coy.]

“Friends Jock Gim and Jock Coy:

My son Foo On has nothing to do in Mexico at the present time. I hope that you two will try your best to get Foo On over to the United States, thus my *entirely* family shall be grateful to you. Formerly, the time when he went to Mexico, he did not have enough money, had to borrow \$200 from Yim Bing of the same village, for steamship fare. I am here at home in the village, have *now* way to borrow. I wish that you would send me \$200, so that I could repay him and settle this account. Wait until later I shall repay you in full.

(Signed) JEUNG JEUCK BING.

Dated Sun Ho i first part of the 5th month (1st part of June 1911).

I hereby certify that the above is a correct translation of the letter written in Chinese marked: #6 Kluse.

LEE PARK LIM,
Chinese Interpreter.” [162]

Mr. STONE.—I next offer in evidence letter dated June 13, 1911, which is marked U. S. Exhibit No. 12-H.

Mr. DOCKWEILER.—Same objection. It is stipulated that my objection in referring to names shall cover the names mentioned in the particular letter.

The COURT.—Very well. Same ruling.

Mr. DOCKWEILER.—Exception.

(Here the letter referred to was received in evidence and filed as U. S. Exhibit No. 12-H, and read to the jury by Mr. Stone, and is as follows:)

**[United States Exhibit No. 12-H—Letter from
Deang Jock Toh to Jock Coy.]**

Brother Jock Coy:

Your letter is at hand, and contents of which understood. In your letter you stated that what money I owe for board will be paid them at the same time when you pay them the money for getting me over to your place. But I have no clothing and the pair of shoes that I have brought with me from Hong Kong have worn out. On your receipt of this letter please send some money to me for buying clothes before I can start from here.

Sometime ago Wong Shi Chu sent \$25.00 here through the Sam Tung Kee store, which is same as Quan Ting Lim's place.

You will have to write down specifically, when I get to San Francisco, to stay in which store I have been here for a long time and I should get started.

Just when I shall start, I will write and inform you beforehand. In regard to sending letter home, I will wait until after I had crossed before doing so. I believe they still have enough money home for subsistence.

All our countrymen here owing board bills are not permitted to leave. They had to settle all bills before they can start. It is not my case only, but the same in every store.

Stamped—DEANG JOCK TOH.

Dated Sun Ho i, 5th month, 18th day (June 13, 1911).

I hereby certify that the above is a correct translation of the letter written in Chinese marked: #7 Kluse.

LEE PINK LIM,

Chinese Interpreter. [163]

Mr. STONE.—I next offer in evidence letter dated September 2, 1911, addressed on the envelope, "Sam Yick, Bakersfield, Cal.," and identified as U. S. Exhibit No. 12-M.

Mr. DOCKWEILER.—Same objection and same stipulation as to change of name.

Mr. STONE.—Yes.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception.

(Here the letter referred to was received in evidence and filed as U. S. Exhibit No. 12-M, and read to the jury by Mr. Stone, and is as follows:)

[United States Exhibit No. 12-M—Letter from
Deang Jock Toh to Jock Coy.]

“Brother Jock Coy:

Your letter is at hand and contents of *whcih* fully understood. Several others and I will come the way as you directed. But there are over three hundred soldiers left from this place for Tia Juana, where to expect to fight. On that account we are *a* fraid to start at the present time. I have sent word to Deang Chung, and requested him to find out about the soldiers sent there and about the fight. I am waiting for Deang Chung’s answer before we will start. For this reason I want to inform you. We wait here a while until we can learn more definitely of what is going on, then will do as you directed us.

I want you to write me and let me know from what part of China is this man Deang Chung from. When you answer this letter, please advise me also whether the immigration officer stations at Oceanside has been bought? I understand that the one stations midway from San Diego is bought. Kindly tell me all about it. I will wait till I hear from Deang Chung and see if everything is safe before we will start, following your direction.

I have received the letter you sent together with a check for \$50. I have turned it over to Sam Lin and he will get it from the Post Office and the same will be delivered to the different parties as instructed in your letter.

Stamped—DEANG JOCK TOH.

From Ensenada.

Dated Sun Hoi, 7th month, 11th day.

(Sept. 2, 1911).

Chinese characters on Registry receipt #2196
8/28/11; Mexico, 7th month, 8th day.

Addressed on envelope: Deliver this to San Yick
Company of Bakersfield.

On the reverse side:

7th month 6th day sent to Mexico.....	\$50.00
Expended for beef.....	.30
“ “ stamps....	.10
“ “ nails.....	.05
“ “ fees for money order....	.18

I hereby certify that the above are correct translations of letter and envelope written in Chinese marked #11, *Kluse*.

LEE PARK LIM.” [164]

Mr. STONE.—I next offer in evidence the letter dated September 3, 1911, addressed to Sam Yick Kee Company at Bakersfield, Cal.

Mr. DOCKWEILER.—Same objection and the same stipulation as to names.

The COURT.—The objection is overruled.

Mr. DOCKWEILER.—Exception.

(Here letter referred to was received in evidence and filed as U. S. Exhibit No. 12-A, and read to the jury by Mr. Stone and is as follows:)

**[United States Exhibit No. 12-A—Letter from
Deang Jock Toh to Jock Coy.]**

Brother Jock Coy:

Your letter is at hand and contents of which fully understood. In your letter you stated about Wong

(Testimony of Charles E. Kruse.)

Shi Chu and I going to Tia Junana, and you will come to San Diego to receive us two men, then go directly to your place. It is perfectly agreeable to me. But you must find a safest course in so doing in order to avoid meeting any difficulty.

The fare to Tia Juana is about \$22.00. . You must let me know where I am to stay while at Tia Juana, and, after getting over to San Diego, where to go, and at what place will you come to meet me. We two men will do what you want us to do and will follow your instructions accordingly.

I still owe the people here my board bill. Please send some money over to me in order to meet this payment, before anything can be done. This is most important.

There is also another man here also from our district, who would like to get across. If you can find a way, my friend and I will come. In sending money do not send it through Sam Lin's place, but get a draft from the bank and send it by registered mail to my address given you in English, that will reach me without difficulty. The man from our district has received words from his friend in San Francisco. His method is also a good method. I know not when he will start, but I shall notify you before hand. He says that he can get his letter of guaranty from the Sam Tung Kee store, such words as that.

On your receipt of this letter, advising me what to do.

(Stamped) DEANG JOCK TOH.

Dated Sun Hoi, 7th month, 12th day (Sept. 3, 1911).

Addressed on envelope: Important letter, for Mr. Deang Jock Gim. The address on said envelope containing the foresaid letter being as follows: Sam Yick Kim Kee Co. Phone Main 113 # P. O. Box 363, 723 18th Street, Bakersfield, Cal.

I hereby certify that the above is a correct translation of the letter and envelope written in Chinese, marked: No. 1 and No. A, *Kluse* respectively.

LEE PARK LIM,

Chinese Interpreter. [165]

Mr. STONE.—I next offer in evidence U. S. Exhibit No. 12-G, seventh month, eleventh day, marked U. S. Exhibit No. 12-G.

Mr. MOTT.—Same objection and same stipulation as to change of name.

Mr. DOCKWEILER.—What is the date of that letter?

Mr. STONE.—The seventh month and eleventh day. It does not give the year, but it refers to one of the Chinese shown to have been brought over as a contraband, Ah Sing, who is on the ticket here and shown to be one of those Chinese.

Mr. DOCKWEILER.—We make the same objection to this letter. It is not dated, your Honor.

(Here it was stipulated that the interpreter might testify as to the date and accordingly the interpreter stated that the date of the letter was September the 2d.)

(Here the letter referred to was received in evidence and filed as U. S. Exhibit No. 12-G, and read to the jury by Mr. Stone, and is as follows:)

**[United States Exhibit No. 12-G—Letter from
Quong You to Jock Coy.]**

“Mr. Jock Coy:

This day I received from you three letters, also a map. You stated in your letter that you want me to join you in the business. I would like to very much.

Jock Toh, Shi Jew and Dock Yoke, the three men had already made arrangement with them, but Ah Sing, I do not know who he is, and have not seen such a man in town, he may not have arrived here yet. I have decided to start next Thursday, the 7th, American Calendar, Chinese the 16th. I have already sent a letter to Deang Chung. You need not worry over this matter. You might make arrangement to meet the vehicle (or train).

Dated Sept. 2/11.

(Signed) QUONQ YOU. 7th month 11th day.

I hereby certify that the above is a correct translation of the letter written in Chinese marked: #8, *Kluse*.

LEE PARK LIM,
Chinese Interpreter.”

Here the Government rested its case in chief.

WITNESSES FOR THE DEFENSE.

[Testimony of F. G. Munger, for Defendants.]

F. G. MUNGER, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is F. G. Munger. I reside in Bakersfield. I am and have been for twenty-two years office superintendent of the Kern County Land Company; I have lived in Bakersfield twenty-seven years. I know the defendant Sam Yick. I have known him for twenty-two years very well. During the time I have been superintendent of the Kern County Land Company I have employed Chinese from Sam Yick, practically all of the Chinamen we employed, and have had a great many other business relations with him, and we have rented our orchards to him and we have done probably one hundred and fifty or two hundred thousand dollars worth of business for Sam Yick. I know Sam Yick's reputation in Bakersfield for truth and veracity, peace and quiet. It is *A1*.

Mr. STONE.—No cross-examination.

[Testimony of E. Weil, for Defendants.]

E. WEIL, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is E. Weil; my occupation is a merchant; I reside in Bakersfield and have resided there for

(Testimony of E. Weil.)

forty-one years; I have a department store there. I have known the defendant Sam Yick about twenty-five years. I know his reputation in Bakersfield for truth and honesty, peace and quiet. It is very good. During all the time I have known Sam Yick I have had business transactions [167] with him, bought goods and farm products from him, and he buys goods from me, and in all my transactions with him, I have found him to be a man of honesty and truth.

Mr. STONE.—No cross-examination.

[Testimony of Arthur Weaver, for Defendants.]

ARTHUR WEAVER, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Arthur Weaver. I am city tax collector and treasurer of Bakersfield and manager of the Postal Telegraph Company there. I have lived in Bakersfield for twenty-five years, and I have been city tax collector and treasurer for twelve years. I have known Sam Yick about twenty-five years as well as any person could know another in a business way. I have sustained business relations with him in my position as tax collector and in the telegraph office. I know his reputation in Bakersfield for truth and veracity, peace and quiet. It has been very good.

Cross-examination by Mr. STONE.

Sam Yick has gone under no other name, as far

(Testimony of Arthur Weaver.)

as I know; he has been using the telegraph office there since I first came there; to a certain extent he has a kind of headquarters for all Chinamen that come into that country; he had a great many Chinamen around in 1910 and 1911; I don't know anything about any Chinamen working for him having been deported for having no right to be in the country.

[Testimony of Charles A. Bear, for Defendants.]

CHARLES A. BEAR, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT. [168]

My name is Charles A. Bear. I was born and raised in Los Angeles; from Los Angeles I went to Bakersfield and have lived in Bakersfield for about twenty years. I have a drug store there and have had during all that time. I have known the defendant Sam Yick ever since I have been in Bakersfield; he has traded at my store and I have known him constantly for the last twenty years. I know his reputation in Bakersfield for truth and veracity, peace and quiet. It has been very good. He has never been mixed up in anything that I know of. He has always been prompt in paying his bills with us, runs accounts with us, etc., and I never heard of him being in any mix-up.

Cross-examination by Mr. STONE.

I know about Sam Yick having a great many Chinamen working for him. I think he ran an employment office at one time in connection with his

(Testimony of Charles A. Bear.)

store. I do not know that a lot of Chinamen were found there that he had kept there for the last few years that were unlawfully in the country.

Redirect Examination by Mr. MOTT.

My operations are very active in Bakersfield. I am right there under a prominent corner under the Southern Hotel; if any such fact as Sam Yick's having kept a number of Chinamen at his place that were unlawfully in the country had existed, I should have known of it.

[Testimony of Charles H. Sherber, for Defendants.]

CHARLES H. SHERBER, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Charles H. Sherber. I am a mail carrier. I live at Bakersfield and have lived there for twenty-eight years. I have known Sam Yick during all the time I have lived in Bakersfield. I [169] have done a great deal of business with him. Previous to my being a mail carrier I was with Wells Fargo & Company there twenty-one years. I was agent for them for thirteen years, and I had a good deal of business with Sam Yick; he was a contractor and handling fruit and merchandise and shipments through our office, and I became very well acquainted with his business. His standing in that community was first class, and his reputation there for truth and honesty and peace and quiet was first class in every way.

(Testimony of Charles H. Sherber.)

Cross-examination by Mr. STONE.

I never carried mail to Sam Yick's store. I think the address of the store is 723 *Eighteen Street*; the the name of the store is Sam Yick; there may be other names on the store building in Chinese that I am not familiar with. I think probably Sam Yick has handled more Chinamen than anybody else in that country since he has been there. He has got a postoffice box, but I don't know the number of it.

[Testimony of Francis Colton, for Defendants.]

FRANCIS COLTON, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Francis Colton. I live in Bakersfield. I have lived there for thirty-nine years. For the last seven years I have been in the dray business; previous to that time I was in the feed and fuel business. I know the defendant Sam Yick very well; I have known him for thirty-one years. The first nine years I was in Bakersfield he was employed by our family, after that I had business with him all the time. I know his reputation in Bakersfield for truth and integrity, peace and quiet; it is good.

Cross-examination by Mr. STONE. [170]

Sam Yick has had charge of a great many Chinamen around Bakersfield. I don't know anything about any of them being contraband Chinese or having no right to be in the country; I saw in the papers that the inspectors had brought away num-

(Testimony of Francis Colton.)

bers of contraband Chinese that Sam Yick had under his control, but I don't know whether it is true or not.

[Testimony of Rowen Irwin, for Defendants.]

ROWEN IRWIN, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Rowen Irwin. I live in Bakersfield. I am an attorney at law; have been such for about twenty-five years; as such attorney I have never been located at any place except Hanford and Bakersfield. I have practiced law in Bakersfield about eleven years. I am now serving my first term as district attorney of Kern County. I know the defendant Sam Yick but have not had occasion to meet him in my official capacity. Shortly after coming to Bakersfield I was employed by Sam Yick in connection with some contracts that he had involving purchases of fruit and some leases, and different civil business in which he was interested. Since that time I have acted more or less as his attorney on different occasions. I am very well acquainted with him in that way. I know his reputation in Bakersfield for truth and integrity, peace and quiet. It is very good.

Cross-examination by Mr. STONE.

I have always known Sam Yick as a contractor and a man engaged in business affairs of considerable importance. I have examined different contracts that

(Testimony of Rowen Irwin.)

he had wherein he purchased large quantities of fruit, etc.; he took contracts to buy fruit on a large scale and business of that character. I don't know whether he [171] ever ran an employment agency at Bakersfield or not. I do not know anything about his handling a great number of Chinese. I never was at his place of business. I know it was in Chinatown. During the course of my duty as district attorney I had nothing to do with the Chinese smuggling cases or the deportation of Chinese unlawfully in the country.

[Testimony of James Curran, for Defendants.]

JAMES CURRAN, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is James Curran. I live in Bakersfield, and have lived there about thirty-one years. I have been in the brick business since 1887; my occupation is manager of the Bakersfield Sandstone Brick Company. At one time I was Justice of the Peace at Bakersfield. I think I know Sam Yick better than any other Chinaman in Bakersfield. I know his reputation there for truth, integrity, peace and quiet; it is good.

Cross-examination by Mr. STONE.

Sam Yick's business has been the Sam Yick store for a good many years. I am not familiar with the kind of business it is, as far as the merchandise in the store is concerned, but I have bought cordwood

(Testimony of James Curran.)

from him for fuel and have at different times sold him building material. I understood that he furnished Chinese labor in great quantities. I don't know anything about his having contraband Chinese. I don't know anything about such contraband Chinese being taken away from his store by the officers. Just about the time I was subpoenaed from here on this case I heard he was in trouble over the smuggling of Chinese. I never heard his reputation as a smuggler discussed one way or the other. I don't know who furnished the Chinese that worked for the Kern [172] County Land & Cattle Company. I never heard of that company locking the gates of their place so that inspectors could not get in to inspect Chinese brought there by Sam Yick.

Redirect Examination by Mr. DOCKWEILER.

The Kern County Land & Cattle Company owns thousands of acres and have ranches all over Kern County and are engaged principally in raising and feeding cattle and sheep.

[Testimony of D. B. Newell, for Defendants.]

D. B. NEWELL, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is D. B. Newell; my occupation is constable of Kern County in the sixth township in the City of Bakersfield. I have lived in Bakersfield for about fourteen years. Prior to being constable I was on the police force there. I know the defend-

(Testimony of D. B. Newell.)

ant Sam Yick. I know his reputation in Bakersfield for truth and honesty, peace and quiet. It has always been good as far as I have known.

Cross-examination by Mr. STONE.

I never heard of San Yick's reputation for smuggling Chinese until this case came up. I think there were to some extent contraband Chinese in Bakersfield prior to 1911. Sam Yick was a man that the Chinamen looked to for labor throughout the country a good deal. He worked a good many men down there, a kind of contractor; I don't think he had a regular employment bureau. If they wanted Chinamen in the country in any way, they would generally come in and ask Sam Yick about them, though there were others they would go to, too. I never heard any discussion about Sam Yick and the smuggling of contraband Chinese until this case came up. [173]

[Testimony of J. R. Williams, for Defendants.]

J. R. WILLIAMS, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is J. R. Williams. I live in Bakersfield, and have lived there for fifteen years. I am a farmer and am now one of the trustees of Bakersfield. I have known the defendant Sam Yick intimately for the last twelve or fourteen years. His reputation in Bakersfield for truth and honesty, peace and quiet, is good.

(Testimony of J. R. Williams.)

Cross-examination by Mr. STONE.

I have never heard Sam Yick's reputation as a smuggler discussed. I know Sam Yick's store in Bakersfield; he has traded with me; has bought hogs and calves from me a good deal. I don't know anything about any contraband Chinese being in the country there. Part of Sam Yick's business was the running of the employment agency up there for Chinese. I have no idea how many he handled.

[Testimony of Charles H. Quincy, for Defendants.]

CHARLES H. QUINCY, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Charles H. Quincy. I live in Los Angeles. Previous to coming here I resided in Bakersfield. I left Bakersfield nine years ago. I came to Bakersfield in 1888 and resided there until I came here. I was in the building and plumbing business in Bakersfield, and since coming to Los Angeles I have visited in Bakersfield quite frequently. I still have interests there and go up there five or six times a year. I know Sam Yick and during all the time I was in business in Bakersfield I had business [174] dealings with him his reputation in the community for truth and honesty, peace and quiet, was good.

Cross-examination by Mr. STONE.

As far as I know, Sam Yick's reputation in the past nine years has been good. I think I know his

(Testimony of Charles H. Quincy.)

reputation for the past nine years based upon my being *being* there in Bakersfield and the people I have met and talked to there.

[Testimony of William E. Deacon, for Defendants.]

WILLIAM E. DEACON, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is William E. Deacon. I live in Pasadena. I live in Pasadena at present and have lived there about seven years. Before going to Pasadena I lived in Bakersfield for sixteen years. I know the defendant Sam Yick very well. I have done a great deal of business with him, both in selling him products from my ranch and buying fruit from him and employing labor from him. I have a ranch near Bakersfield and since living in Pasadena I have visited this ranch probably a dozen times a year. Since I have been living in Pasadena I have sold the fruit from my Bakersfield ranch to Sam Yick. I know Sam Yick's reputation in Bakersfield for truth and honesty, peace and quiet; it is good.

Cross-examination by Mr. STONE.

I have sometimes worked Chinamen on my ranch near Bakersfield. I procured the Chinamen through Sam Yick. I don't know anything about these Chinamen being deported. I have never heard of any Chinamen brought into Sam Yick's place that were unlawfully in the country. Ever since 1897, almost every year, I have sold fruit to

(Testimony of William E. Deacon.)

Sam Yick from my ranch, and in 1906, I [175] bought several hundred tons of dried fruit from Sam Yick, to ship. It is generally understood about Bakersfield among business men that Sam Yick is all right, both for the payment of his debts and as to his integrity.

[Testimony of David S. Stern, for Defendants.]

DAVID S. STERN, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is David S. Stern. I live in Los Angeles. I have lived there for seven years. Prior to that time I lived in San Francisco. I have visited Bakersfield every month, sometimes twice a month. I am very well acquainted there. I have been going there for the last nine years. During that time I have become acquainted with Sam Yick. I know him very, very well. I saw him every time I visited Bakersfield. I know his reputation there for truth and honesty, peace and quiet; it is very good.

Mr. STONE.—That is all.

[Testimony of Frank H. Robinson, for Defendants.]

FRANK W. ROBINSON, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Frank H. Robinson. I have lived in Bakersfield for twenty-three years. I am a banker and in the fire insurance business. I know

(Testimony of Frank W. Robinson.)

Sam Yick quite well. His reputation for truth and honesty, peace and quiet in Bakersfield is good.

Cross-examination by Mr. STONE.

Sam Yick ran an employment agency for Chinese in connection with his store. I never heard him accused of smuggling Chinese until this case came up. [176]

[Testimony of Joseph Morley, for Defendants.]

JOSEPH MORLEY, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Joseph Morley. I am a rancher and live in Bakersfield. I have lived there for twenty-nine years. I have known Sam Yick very well for twenty-six years. His reputation around Bakersfield for truth and honesty, peace and quiet, is good.

Cross-examination by Mr. STONE.

Sam Yick's business in 1909, 1910 and 1911 was an employment agency. He employed Chinamen going out to work. The Chinamen came from his store.

[Testimony of H. I. Tupman, for Defendants.]

H. I. TUPMAN, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is H. I. Tupman. I live in Bakersfield. I have lived there for twenty-two years. I know

Sam Yick; his reputation in Bakersfield for peace and quiet, truth and honesty, is first class.

[Testimony of James M. Hunter, for Defendants.]

JAMES M. HUNTER, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is James M. Hunter. I live in Los Angeles. I have lived there for eight years and a half. Before coming to Los Angeles I lived in Bakersfield. I have property interests now in Bakersfield, and in the past eight years I have visited Bakersfield frequently and kept in touch with affairs there. I have known the defendant Sam Yick for fifteen or eighteen years. Prior to his starting in the mercantile business in Bakersfield he was [177] a cook in my family, and after that I had several transactions with him, both in renting land to him and loaning him money; his reputation in Bakersfield for truth and honesty, peace and [178] quiet, is very good.

Cross-examination by Mr. STONE.

My knowledge of Sam Yick's reputation in the past eight years is based somewhat on correspondence with him and with his representative regarding loans. His representative discussed Sam Yick's reputation and told me it was good; we were discussing the matter of making a loan.

[Testimony of James E. Anderson, for Defendants.]

JAMES E. ANDERSON, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is James E. Anderson. I live at Burbank, California. I used to live at Wasco, Kern County, about twenty-five miles from Bakersfield. I know the defendant Sam Yick; have known him in a business way for seventeen years. I have never heard anything against his reputation for truth, honesty, peace and quiet, but what his reputation was good.

Cross-examination by Mr. STONE.

I have met Sam Yick on my trips to Bakersfield in the last six or seven years and I have heard his reputation discussed.

[Testimony of Thomas Filben, for Defendants.]

THOMAS FILBEN, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. MOTT.

My name is Thomas Filben. I live in Los Angeles. Prior to coming to Los Angeles I lived for a few months in San Francisco. Prior to that time I lived at Wasco, about twenty miles from Bakersfield. While living there I would visit Bakersfield frequently. [179] I have known Sam Yick for about twenty years. For a large part of that time I was secretary of the corporation at Wasco that

(Testimony of Thomas Filben.)

arranged its harvest through Sam Yick Company, and afterwards I arranged my own harvesting through his company and the arrangements for my household, and all that. I knew him well. I had his brother in my house as a domestic servant. I know Sam Yick's reputation in Bakersfield for truth, honesty, peace and quiet; it is good. I am a retired clergyman and was in charge of the Chinese Missions of the Pacific Coast for a year at the time of the San Francisco fire and earthquake, and was then chairman of the Chinese Relief Committee, and during all these times I knew Sam Yick.

Cross-examination by Mr. STONE.

I have a ranch at Bakersfield. I work Chinamen on the ranch when I can get them. I never had any reason to believe that the Chinamen I worked were contraband. I knew nothing at all about the facts in this case. I had to inquire why Sam Yick was in court this morning.

[Testimony of Mrs. Sam Yick, for Defendants.]

Mrs. SAM YICK, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Mr. STONE.—Let the records show that we withdraw our objection to the testimony of this woman on the ground that she is the wife of the defendant.

The COURT.—Very well.

Direct Examination by Mr. DOCKWEILER.

(Witness testifying through interpreter.) My

(Testimony of Mrs. Sam Yick.)

name is Lee Shee. I was born at San Francisco. I am the wife of the defendant Sam Yick. I knew Edward P. Morse October the 14th, 1911, he came [180] to my place on that day and got one hundred dollars in gold. He came about seven o'clock in the morning,—rapped at the door. I opened the door for him. He asked whether my husband was up yet. I told him not and then I woke my husband up, and then Mr. Morse asked my husband for one hundred dollars. My husband got a hundred dollars from me in gold and gave it to Mr. Morse, then Mr. Morse said he had important business and went.

Cross-examination by Mr. STONE.

This was about seven o'clock on the morning of October the 14th, 1911. It was the third year of Sun Hung, that is 1911, the 24th day of the eighth month. (The interpreter, in response to question by Mr. Stone, "that would be October the 14th.") The Southern Pacific Passenger station is about a mile from my house. When Mr. Morse left that morning he went towards the American town, towards the Southern Pacific passenger depot. It was a few minutes before seven that Mr. Morse came; it was past six and before seven; it was between six and seven o'clock; it was nearly seven; any time past six is nearly seven.

[Testimony of Jung Kim, for Defendants.]

JUNG KIM, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

(Testimony of Jung Kim.)

Direct Examination by Mr. DOCKWEILER.

My name is Jung Kim Chung. I was born in San Francisco. I am forty-two years old. I am one of the defendants in this case. On September the 16th, 1911, I knew A. G. Bernard (here at request of counsel Mr. Bernard stands up), the gentleman standing in the courtroom now.

Q. I show you U. S. Exhibit No. 7 in this case, which appears to be some writing in lead pencil upon a Western Union Telegraph Company's blank (handing paper to witness). Please take it and examine it. Having done so state if the handwriting on [181] the paper is your handwriting.

A. Yes, sir. It is my handwriting.

Q. Did you write that on that telegraph blank at your own suggestion or anybody else's, and if so, at whose suggestion?

A. It was suggested to me by Mr. Bernard.

Q. I show you a letter in Chinese introduced in evidence here as Government's Exhibit No. 10, and ask you to examine it and state whether the Chinese characters thereon in lead pencil were made by you.

A. Yes, it is my writing.

Q. Did you write that down there at your own suggestion or at the suggestion of anyone else, and if so, at whose suggestion?

A. This letter was written at the telegraph office, right after the telegraphic message was written. He told me to write to the Chinamen over there and also told me to tell those Chinamen over there that in twenty days' time he will go over and get them back.

(Testimony of Jung Kim.)

And then when I was writing the letter he told me to tell the Chinamen there to destroy the papers and destroy the letter after reading it over. All these suggestions came from him, and I didn't know what it meant by all this suggestion, but I only wrote this upon his dictation. When I finished the writing he took it, and then instead of taking it over to the Chinamen, as he said he would, he put it in his pocket and it is now produced here as evidence against me.

Q. When you refer to "he," who do you mean?

A. Mr. Bernard.

Cross-examination by Mr. STONE.

Mr. Bernard talked it to me down there at the time this letter was written, that the Chinese would be carried back from Mexico in twenty days.

Q. (By Mr. STONE.) Let's see your right hand. (Witness exhibits hand.) [182]

Q. (By Mr. STONE.) Hold it up to the jury.

Mr. DOCKWEILER.—One minute. (Here witness exhibits hand to the jury.)

Mr. DOCKWEILER.—That is objected to as incompetent, irrelevant and immaterial and not proper cross-examination.

And we assign the conduct of the district attorney in this matter as error.

The COURT.—Very well. If you want any instructions to the jury to disregard it—but that would be futile. I take it.

Mr. STONE.—Where the personal appearance of the witness is concerned, the fact that he comes on

(Testimony of Jung Kim.)

the stand, where I presume every man could see his condition—

The COURT.—Well, let it stand as it is. There is nothing I can do, anyway. If there is error in the record, I cannot help it now. I may say this, though, that I don't think there is error in the request of the U. S. Attorney for him to exhibit his thumb.

[Testimony of Sam Yick, for Defendants.]

SAM YICK, a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination by Mr. DOCKWEILER.

(The witness is sworn through an interpreter.)

Mr. STONE.—I understand that defendant speaks English well. I may have been wrongfully informed, but I insist he be examined in English if he can be.

The COURT.—Very well.

Mr. DOCKWEILER.—In talking with him there are times I understand him and times I do not.

The COURT.—Well, see if you *can along* without the interpreter.

Mr. DOCKWEILER.—Very well. [183]

(Witness testifying in response to questions by Mr. Dockweiler.) I knew Mr. Morse, the witness who has testified in this case, on October the 14th, 1911. I saw him at Bakersfield early in the morning of that day in my store. I was not up when he called. The store was not open. My wife opened the door for him. Mr. Morse came and he wanted a hundred dollars bad. I told him I had no money but I borrowed

(Testimony of Sam Yick.)

a hundred dollars from my [184] wife and gave it to him. He has not paid it back.

Cross-examination by Mr. STONE.

The money I gave Mr. Morse was five twenty dollar gold pieces; I looked at the clock once while Mr. Morse was in the store but I don't remember now, but it was nearer seven than six o'clock.

Q. On May 8, 1911, did you take a ride out in the country in a buggy with Mr. Morse?

Mr. DOCKWEILER.—We object to the question as not cross-examination, and we assign as error the conduct of the District Attorney in presenting that question, the object being to prejudice the jury against this defendant who is on the witness-stand.

Mr. STONE.—In answer to that I will state that I first asked your Honor if I could go into that matter and your Honor said that unless they objected you would not restrict the examination.

The COURT.—I said I could not pass upon it in advance of an objection.

Mr. STONE.—The question was not asked for the purpose of prejudicing this jury against the witness, but for the purpose of learning his connection with the matter and whether or not the Government witnesses have told the truth.

The COURT.—The objection is sustained.

Mr. DOCKWEILER.—And we assign as error the statement of counsel just made with reference to the defendant, because counsel certainly knows the rule.

(Witness continuing.) I did not get any receipt for this one hundred dollars at all. I asked for a

(Testimony of Sam Yick.)

receipt and Mr. Morse would not give it. I live in new China Town and my house is about half or three-quarters of a mile from the Southern Pacific depot. [185] Mr. Morse already had the money when I asked him for the receipt; he was in the house when I gave him the money; after he left my house he went up town towards the American town.

**[Testimony of Mrs. Sam Yick, for the Defendants
(Recalled).]**

Mrs. SAM YICK, recalled at the request of the jury.

Q. (By JUROR.) I would like to ask her what kind of money she gave Mr. Morse. (To the interpreter.) Ask her what kind of coin was it she gave Mr. Morse.

(Witness testifying through interpreter.)

A. Gold coin.

Q. What kind? What denomination?

A. Big pieces, five of them.

Q. (By Another JUROR.) I would like to ask the witness if she can speak English.

The COURT.—Ask her. (Question asked through an interpreter.)

A. No.

The JUROR.—And born in San Francisco?

A. Yes.

Q. (By Mr. DOCKWEILER.) Do you understand English? A. No.

Mr. DOCKWEILER.—That is all.

Here the defendants rested their case.

WITNESSES IN REBUTTAL.

**[Testimony of Edward P. Morse, for the Government
(Recalled in Rebuttal).]**

EDWARD P. MORSE, a witness recalled on behalf of the Government in rebuttal, testified as follows:

Direct Examination by Mr. STONE.

From six to eight o'clock in the morning of October the 14th, 1911, I was inspecting passenger trains at the Southern Pacific depot and the Santa Fe depot at Bakersfield. I first inspected [186] the trains of the Southern Pacific depot. I went to the Southern Pacific depot very shortly before six o'clock in the morning. The first train that I was to meet there arrived at 6:05 and I usually got there from five to fifteen minutes before that. I usually stayed at the Southern Pacific depot until about twenty minutes of seven and then I took the trolley car, rode over to the Santa Fe depot to meet the train there that arrives at seven o'clock. The Santa Fe depot is about a mile and a quarter from the Southern Pacific depot. I made notes in my notebook and also made weekly reports of my employment and where I was at different hours. (Witness examining paper handed to him by Mr. Stone.) Yes, this is my weekly report from October the 8th, 1911, to October the 14th, 1911, inclusively. I made out this report and sent it to Mr. Connell in Los Angeles. I probably finished this report on the 15th and mailed it that day or the following day to Los Angeles. Refreshing my memory from my memo-

(Testimony of Edward P. Morse.)

random on the morning of October the 14th, 1911, there was one Chinaman that arrived on train No. 7. This train is due at 6:05 and was very close on time. I stayed at the Southern Pacific depot until about 6:40; there was a car that left there approximately at 6:40, which just gave me time to get to the Santa Fe at seven o'clock. On leaving the Southern Pacific depot I went to the Santa Fe depot and I arrived there approximately at seven o'clock. I stayed there until about eight o'clock. I inspected three Santa Fe trains between seven o'clock and close to eight o'clock A. M. Between my inspection of the trains I did not go to any place except the two depots that I have mentioned. The Santa Fe depot is fully half a mile from Sam Yick's place.

Cross-examination by Mr. DOCKWEILER.

(At the request of counsel witness draws lead pencil sketch showing the location of the Southern Pacific depot and the Santa [187] Fe depot, and the location of both of them with reference to Sam Yick's house as they existed in October, 1911.)

(Witness testifying.) The line I have drawn on this sketch running from the Southern Pacific depot to the Santa Fe depot indicates the trolley line that I travelled on in going from the Southern Pacific to the Santa Fe. Sam Yick's store was located in a general direction between the Santa Fe depot and the Southern Pacific depot and was one square south of the car line between the two depots; it was on Eighteenth Street. Sam Yick's store was about in the middle of the cross-street between Eighteenth

(Testimony of Edward P. Morse.)

and Nineteenth; it was in about the middle of the block. The distance from Eighteen to Nineteenth Street was approximately six hundred feet. The block in the middle of which Sam Yick's store was located was about the same length. My memorandum-book (here witness examines memorandum-book handed him by counsel) does not show under date of October the 14th, 1911, what time I arrived or what time I left the Southern Pacific depot; it does not show the time of my arrival or departure from the Santa Fe depot. I got up about a quarter past five on October the 14th, 1911; it took me probably ten or fifteen minutes to dress. I left the house without breakfast and went to the Southern Pacific depot. I got there a few minutes before six. I remained there until a quarter to seven and from there I went straight to the Santa Fe depot on the street-car line. I got to the Santa Fe depot about seven o'clock; stayed there about an hour and left there about eight. On my way from the Southern Pacific depot to the Santa Fe depot it was possible for me to have got off the trolley car at either P Street or Q Street, walk one block south, then for a block east or west, and return and take the trolley car and gone straight to the Santa Fe depot; that could have been done at any time. There was no physical obstacle to prevent my doing so on the morning of October 14th, 1911. It would have taken me probably ten minutes to have got off [188] the street-car on my way to the Santa Fe depot, gone to Sam Yick's store, stayed there five minutes or so and got back to the car line

(Testimony of Edward P. Morse.)

again. If I had done that though I would have to wait twenty minutes for another car. I had no conveyance that morning at all. The distance from Sam Yick's store to the Santa Fe depot is between half and three-quarters of a mile. I could have walked it briskly in twenty minutes or so. From the Southern Pacific depot to Sam Yick's store without the street-car it would have taken me thirty-five or forty minutes to go there. On October the 14th, 1911, the street-car running from the Southern Pacific depot to the Santa Fe was scheduled to run every twenty minutes, at least that is the best of my recollection. I have no idea how often they run now. The schedule was changed between October, 1911, and April, 1912, and at the latter time they were running oftener. I inspected three trains coming in on the Southern Pacific on the morning of October the 14th. No. 7 arrived at six o'clock, and No. 83 arrived, which was scheduled to depart at seven A. M., and Nos. 25 and 49 which arrived shortly after midnight until about 2:30 A. M. I left the Southern Pacific depot that morning about 6:40 and got to the Santa Fe depot about seven. I did not loiter on the way or get off the street-car or stop at any place. I did not walk from one depot to the other, and I did not ride on the street-car to a certain point and then get off and walk the balance of the distance. After leaving the Santa Fe depot about eight o'clock I went to the Sheriff's office, got my mail and stayed there for an hour or more.

**[Testimony of Forrest V. Owen, for the Government
(in Rebuttal).]**

FORREST V. OWEN, a witness called on behalf of the Government in rebuttal, having been first duly sworn, testified as follows:

Direct Examination by Mr. STONE.

My name is Forrest V. Owen. I live at Bakersfield. Have lived [189] there for seven years. I am in the railroad business there. I am chief clerk to the superintendent of that division of the Southern Pacific Railroad. In October, 1911, I was chief clerk in one of the departments of the Southern Pacific Railroad at Bakersfield. At that time the Southern Pacific Railroad kept the regular dispatcher's train sheets which would show the arrival and departure of trains. I have such sheet for the 14th day of October, 1911. This record shows that Southern Pacific train No. 7 arrived at the passenger station at Bakersfield at 6:22 A. M., October the 14th, 1911. My recollection is that this train was scheduled to arrive at 6:05 A. M. Train No. 83, on October the 14th, 1911, left Bakersfield passenger station at 7:12 A. M.; the regular time was seven o'clock.

Cross-examination by Mr. DOCKWEILER.

The train scheduled to arrive at 6:05 actually arrived at 6:22 A. M., and there was a train made up at Bakersfield which actually left there at 7:12 A. M. on the morning of October the 14th, 1911.

Mr. DOCKWEILER.—We will introduce this sketch made by Mr. Morse as Defendants' Exhibit

(Testimony of Forrest V. Owen.)

“B.” (Here sketch made by witness Morse was introduced in evidence filed and marked Defendants’ Exhibit “B.”)

Here the Government and the defendants rested.

**[Instructions Requested by Defendants and
Refused.]**

Thereupon the defendants requested the Court to give to the jury the instructions hereinafter immediately set out, which request was by the Court refused as to each and every one of the said instructions, to each and every one of which refusals the defendants and each of them duly excepted. [190]

You, Gentlemen of the Jury, are the sole judges of the facts in this case, and of the creditability of the witnesses. Before reaching a verdict, you will carefully consider and compare all the testimony. You will observe the demeanor of the witnesses on the witness-stand, their interest in the result of your verdict, if any such interest is shown, the probability of the truth of their testimony, their bias or prejudice, or the absence of either of these qualities, and the facts and circumstances given in evidence or surrounding the witnesses at the trial. A witness false in one part of his testimony is to be distrusted in others, and if you find from the consideration of all of the testimony in this case that any witness has wilfully testified falsely to any material fact, you are at *the* liberty to disregard the testimony of that witness entirely, except in so far as he may be corroborated by other creditable testimony or by other known facts in the case.

(Section 2061, Subdivision 3, Code of Civil Procedure of California. *People vs. Dolan*, 96 Cal. 315; *People vs. Arlington*, 131 Cal. 231; *U. S. vs. G. Wing*, 426 Crim., Decided by Judge Rudkin.) [191]

The Jury is further instructed that the fact that the two defendants in this case are Chinamen, of course, is immaterial. They are subject to the law, and they are under its protection. They are entitled to the same fair and impartial consideration by you as a citizen or subject of any other country, or as any citizen of the United States. [192]

The Jury is instructed that a defendant in a criminal action or proceeding cannot be compelled to be a witness against himself, and his neglect or refusal to be a witness can in no way prejudice him, or be used against him on the trial of the proceeding.

And I further instruct you that every person accused of a public offense is presumed in law to be innocent of the crime charged until his guilt is established to the satisfaction of the Jury and beyond a reasonable doubt. This presumption in this case is not any fiction, to be disregarded by you at pleasure; it is a substantial part of the law of the land; it accompanies these defendants throughout the trial and abides with them until its last vestige is destroyed, and until you are satisfied of their guilt beyond a reasonable doubt, notwithstanding the presumption of *offense* with which the law surrounds them.

(California Penal Code, Section 1323.) [193]

The only crimes punishable under Federal law are those defined by the laws enacted by Congress.

Therefore, it must be kept in mind that the prosecution in this case is for an alleged statutory crime. The elements of the crime of conspiracy under the laws of the United States are: (1) an object to be accomplished which must be (a) the commission of an offense against the United States; (b) to defraud the United States. (2) A plan or scheme embodying means to accomplish the object. (3) An agreement or understanding between two or more persons whereby they become definitely committed to co-operate for the accomplishment of the object by the means embodied in the scheme, or by any effectual means. (4) An overt act by one or more of the conspirators to effect the object of the conspiracy.

(U. S. v. Munday, 189 Fed. 375, p. 377.) [194]

A reasonable doubt is a doubt as will cause a reasonable prudent and *considerable* man to hesitate or waver in the greatest or most important affairs of human life, before acting upon the truth of the matters charged or alleged. This doubt may arise from the evidence, or from the lack of evidence. If from a full and fair consideration of all the testimony, you have not an abiding conviction to a moral certainty of the guilt of the defendants, and if you have such a doubt as causes you to hesitate or waver as to the guilt of the defendants, or if you have a doubt for which a reason cannot be assigned, then it is your duty to return a verdict of not guilty. [195]

The Jury is instructed that while a conspiracy may be proven by circumstantial as well as by direct evidence, it must nevertheless be proven by competent testimony and to your satisfaction beyond a rea-

sonable doubt before you will be warranted in finding a verdict of guilty; and where circumstantial evidence is relied upon, the circumstances themselves must be proven beyond a reasonable doubt, and when so proven, they must not only be consistent with the guilt of the accused, but they must not be consistent with any other rational hypothesis. It is your duty to reconcile the testimony consistently with the innocence of these defendants, if you can do so on any reasonable basis. [196]

The Jury is instructed that the law in a criminal case clothes the defendants, and each of them, with the presumption of innocence; and when proof tends to overthrow this presumption, and to fix upon such defendant the presumption of guilt, the latter is permitted to support the original presumption of innocence by proof of good character. Such good character, when proven, is a circumstance tending, in a greater or lesser degree, to establish his innocence. It is of value not only in doubtful cases, but also when the testimony tends very strongly to establish the guilt of the accused. When proven, it is a fact in the case, and it is not to be put aside by the Jury in order to ascertain that the other facts and circumstances considered in themselves do not establish the defendants' guilt beyond a reasonable doubt, but such good character, if proven, should be considered by the Jury in connection with all the other testimony in the case, and not independently thereof, and the guilt or innocence of the defendant determined from all the testimony of the case, and such good character, if proven, should be weighed as any other fact

established, and may, if proven, in itself be sufficient to raise a reasonable doubt as to the defendants' guilt in the minds of the Jury. If the Jury find the evidence conflicting, and doubtful as to defendants' guilt, the importance which the Jury are authorized to give to the evidence of good character is thereby increased.

(State vs. Brown, 39 Utah, 190, 115 Pac. 994; People vs. Doggett, 62 Cal. 29; U. S. vs. Newton, 52 Fed. Rep. 275, at page 290.) [197]

The Jury is instructed that if you find from the evidence that Inspector A. P. Morse and Inspector A. G. Bernard were accomplices or co-conspirators with the defendants in this case, their testimony ought to be viewed with distrust, and their evidence as to the oral admissions of the defendants in this case ought to be viewed with caution, and you are further instructed even if you find from the evidence that Inspector A. P. Morse and Inspector A. G. Bernard were accomplices or co-conspirators with said defendants, a conviction cannot be had on their testimony alone, unless they are corroborated by other evidence, which in itself and without the aid of their evidence tends to connect the defendants with the commission of the offense charged in the indictment; and the corroboration is not sufficient for a conviction if it merely shows the commission of the offense or the circumstances thereof.

(Section 1111 of the California Penal Code; also Section 2061, Subdivision 4, of the California Code of Civil Procedure.) [198]

No conspiracy can exist without at least two persons being conspirators therein. One person cannot constitute a conspiracy. Therefore, if you find from the evidence that the acts charged by the Government in the indictment to have been committed by the defendant Jung Kim were performed by said defendant, Jung Kim, simply as an employee, servant, or agent of the defendant, Sam Yick, and were performed by said defendant, Jung Kim, without any common design, purpose or understanding on the part of said defendant, Jung Kim, and said defendant Sam Yick, then I instruct you that said defendant, Jung Kim, cannot be considered a conspirator with said defendant, Sam Yick, and if you further find that the acts performed by Inspector A. P. Morse, and Inspector A. G. Bernard were performed solely for the purpose of entrapping the defendants, and without any common design, purpose or understanding with said defendant, Sam Yick, or said defendant, Jung Kim, and without any unlawful intent on the part of said Inspector A. P. Morse and said Inspector A. G. Bernard, then I instruct you that said Inspector A. P. Morse and said Inspector A. G. Bernard cannot be considered as co-conspirators with said defendant, Sam Yick, and that it necessarily follows that the proof of the commission of the conspiracy alleged in the indictment is reduced to one person, to wit, Sam Yick, and that one person alone cannot form or constitute a conspiracy, even though you find that all of the acts charged in the indictment were done by the defendant, and you must return a

verdict of acquittal as to both of the defendants.

(U. S. vs. Newton, 52 Federal, 275, at page 280 and page 286.) [199]

The jury is instructed that an accomplice is a person knowingly, voluntarily, and with common intent with the principal offender, voluntarily unites and actually co-operates with him in the commission of a crime. Where the evidence is conflicting as to whether the co-operation is voluntary and real, it is for the Jury to determine whether such witness is an accomplice. If you find from the evidence that the witnesses, Inspector Morse and Inspector Bernard, or either of them, were accomplices with the defendants, or either of them, then I instruct you that the testimony of such of them as you may find to be an accomplice ought to be viewed with distrust and caution, and should not be believed by you, unless corroborated by independent testimony tending to connect the defendants with the offense charged in the indictment. A conviction cannot be had upon the testimony of an accomplice alone. He must be corroborated by such other independent evidence as shall tend to connect the accused with the commission of the offense. This corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof, nor can the statement of one accomplice be regarded as sufficient corroboration of the statement of another accomplice. The corroboration which merely raises a suspicion of guilt because the accused had an opportunity to commit the offense is not sufficient. It is for the Jury to

determine whether the testimony of such witness or witnesses you may find to be accomplices in this case has been so corroborated as to establish the guilt of the accused beyond a reasonable doubt, and if you find that the testimony of such witness or witnesses as you may find to be accomplices has not been so corroborated, as to either of the defendants, then as to such defendant your verdict should be not guilty.

(California Penal Code, Section 1111; California Code of Civil Procedure, Section 2061, Sub. 4; Wharton's Criminal Evidence, Vol. 1, Sections 440, 441; 10 Edition.) [200]

The Jury is instructed that the defendant in a criminal action or proceeding cannot be compelled to be a witness against himself, but if he offer himself as a witness, he may be cross-examined by the prosecuting attorney as to all matters about which he was examined upon direct examination. And defendant's failure or neglect to be a witness or to testify upon any particular point or any matter connected with the case, should not in any manner prejudice him nor be used against him on the trial or proceeding, or considered by you in determining his guilt or innocence.

(Section 1323, Cal. Penal Code; *People vs. McGunghill*, 41 Cal. 429, at page 431; *People vs. Sanders*, 114 Cal. 216, at page 238; *Balliet vs. U. S.*, 129 Federal, C. C. A., 689, at page 695; *Dimmick vs. U. S.*, C. C. A. Ninth Circuit, 121 U. S. 638, at page 644; *State vs. Elmer*, 115 Mo. 401, 22 S. W. 369; *Lewis vs. State*, 137 Indiana, 344, 36 N. E. 1110; *State vs. Graves*, 95 Mo. 510, 8 S. W. 739.) [201]

The Jury is instructed that the mere fact that the defendants herein have been indicted by a United States Grand Jury, does not, of itself, raise any presumption in any manner whatsoever that either of the defendants are guilty, as charged in the indictment, and the fact that the defendants have been indicted by a grand jury must be considered by you in passing upon the question of the guilt or innocence of the defendants.

[Endorsed]: 575-Crim. U. S. Dist. Court, Southern Dist. of Calif., Southern Division. United States vs. Sam Yick et al. Instructions requested by defendant Refused. Filed Apr. 2, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Dept. Clerk.
[202]

[Instructions of Court to Jury.]

The Court thereupon gave and read to the jury the instructions hereinafter immediately set forth to the giving of each and every one of which instructions the defendants and each of them duly excepted.
[203]

Gentlemen of the Jury:

The indictment in this case was found under section 37 of the United States Criminal Code, which is in substance as follows:

“If two or more persons conspire * * * to commit any offense against the United States * * * and one or more such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be” punished as prescribed in said Section.

The offense which it is alleged the defendants con-

spired to commit was a violation of the act of July 5th, 1882, as amended by the act of July 5th, 1884, in substance as follows:

“That any person who shall knowingly bring into, or cause to be brought into the United States by land, or who shall aid or abet the same, * * * any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished as provided in said Section.” [204]

The charge against the defendants, comprehensively stated is, that they conspired to smuggle into the United States Chinese laborers not entitled to enter, and, that one of the defendants, Jung Kim, committed certain overt acts, namely, that he, said Jung Kim, at the City of Bakersfield, County of Kern, State of California, on September 8th, 1911, purchased a certain railway ticket for his transportation from said City of Bakersfield to the City of San Diego, County of San Diego, in said State, and on said date left and departed from said City of Bakersfield, over the line of the Southern Pacific Railway, and traveled from said City of Bakersfield to said City of San Diego, and that said Jung Kim, on September 13th, 1911, went from said City of San Diego to the town of Tia Juana, Mexico, for the purpose of arranging to bring into the United States, as alleged in the indictment, the three Chinese persons therein named, to wit, Dock Yook, See Chew and Wah Sung, said persons being, as defendants well knew, Chinese laborers, not entitled to enter, be or remain in the United States.

Since the character and objects of the conspiracy, as well as the overt acts, are fully set forth in the indictment, which has been read to you, and will be with you in the Jury room, its contents need not be further recited here.

By the words, "overt acts" is meant, the things which it is alleged the defendant Jung Kim did in furtherance of, and to effect the objects of the conspiracy.

Thus, the Jury will observe, that the defendants are not on trial for unlawfully bringing Chinese laborers into the United States, but for having conspired to do so. [205]

You will be called upon, in this case, to consider, among others, the following questions: "Was there a conspiracy, between the defendants, and did the defendant Jung Kim commit the overt acts, or either of them, as alleged in the indictment?"

If the evidence satisfies you beyond a reasonable doubt, that said conspiracy existed, and, that said Jung Kim committed said overt acts, or either of them, you will find the defendants guilty as charged in the indictment.

If, however, the evidence fails to so satisfy you of the existence of said conspiracy, or of the commission by said Jung Kim of either of said overt acts, you will find the defendants not guilty. [206]

The Court further charges you, that a conspiracy is a combination between two or more persons to do a criminal or unlawful act, or a lawful act by criminal or unlawful means.

From this definition of conspiracy, it follows, of

course, that there can be no conspiracy where one individual acts by and for himself only.

A mere mental purpose cannot justify a conviction of conspiracy. A common design is of the essence of the charge.

A person, therefore, in order to become a party to a conspiracy, must combine with some one else to effect the object of the conspiracy by the means agreed upon. [207]

The Court further instructs you, that, to constitute a conspiracy, it is not necessary that two or more persons should meet together and enter into an explicit or formal agreement for an unlawful scheme, or, that they should directly, by words, or in writing, state what the unlawful scheme was to be and the details of the plan or means by which an unlawful combination was to be made effective. It is sufficient if two or more persons have, in any manner or through any contrivance, knowingly co-operated, acted or worked together to accomplish a common and unlawful design.

Conspiracy can seldom be proved by direct testimony. Persons combining for the execution of an unlawful enterprise do not ordinarily expose themselves to public observation and the fact of a combination can, therefore, as a general rule, be established only by proof of the acts of the several parties in such combination, the relation of these acts to each other, and their tendency by united effect to produce the common results.

The evidence in proof of a conspiracy will, generally, from the nature of the case, be circumstantial.

Though the common design is the essence of the charge, it is not necessary to prove that the defendants came together and actually agreed in terms to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same object, often by the same means, one performing one part, and another another part of the same so as to complete it, with a view of attaining the same object, the Jury will be justified in the conclusion that they were engaged in a conspiracy to effect that object. [208]

The Court further charges you, that, where circumstantial evidence is relied upon to establish the conspiracy, or any other fact, it is not only necessary, that all the circumstances concur to show the existence of the conspiracy or other fact sought to be proved, but such circumstantial evidence must be inconsistent with any other rational conclusion. [209]

The Court further instructs you, that the fact, if it be a fact, that Government officers incited or aided defendants to commit the crime charged against them, if they did commit it, is no bar to a prosecution by the Government.

The Court further instructs you, that persons engaged in a criminal conspiracy, such as here charged, may be held guilty of the crime, even though they were incited to it by Government officers, or were acting in the belief that Government officers or agents were co-operating with them, and notwithstanding the parties so engaged were depending upon such officers to protect them from arrest, and to aid in carrying out the objects of the conspiracy.

If, therefore, you find from the evidence, beyond a reasonable doubt, that there was a conspiracy between the defendants, as alleged in the indictment, and that the defendant Jung Kim committed either of the overt acts therein charged, it will be your duty to find the defendants guilty, notwithstanding officers of the Government participated, if they did participate, in any of the acts committed by defendants, or either of them. [210]

Reference has been made in argument by counsel on both sides to the fact, that the defendants in this case are Chinamen. The Court instructs you, that this fact should not create in your minds any bias or prejudice either for or against them. They are subject to the law and under its protection, and of course entitled to the same fair and impartial consideration by you as a citizen or subject of any other country or a citizen of the United States. [211]

A number of witnesses have testified to the good character of defendant, Sam Yick. On this subject, the Court charges you, that the good character of a person accused of a crime, when proven, is itself a fact in the case; it must be considered in connection with all the other facts and circumstances admitted in evidence on the trial, and if, after such consideration, the Jury are not satisfied, beyond a reasonable doubt, of the guilt of defendant Sam Yick, they should acquit him. If, however, they are so satisfied from all the evidence in the case, that said defendant is guilty, they should convict him, notwithstanding proof of good character. [212]

The Court further instructs you that you are the

sole judges of the facts and the credibility of the witnesses, and, in passing upon the credibility of witnesses, you may consider, among other things, their intelligence, their relation to the controversy and to the parties; the interest, if any, they have in the result of the trial; their prejudices and motives; their hopes and fears; their bias or impartiality; the reasonableness, or otherwise, of the statements they make—together with their manner upon the witness-stand, and should give to their testimony such weight as you believe it entitled to receive.

If a witness is shown knowingly to have testified falsely on the trial touching any material matter here involved, the Jury should distrust his testimony in other particulars, and are at liberty to reject the whole, or any part of it.

The defendants are competent witnesses in their own behalf, and you must weigh their testimony according to the same rules that you weigh the testimony of any other witness. Of course, as in the case of any other witness, you may consider their interests in your verdict.

A defendant in a criminal case cannot be compelled to be a witness against himself, but if he offer himself as a witness, he may be cross-examined by the prosecuting attorney as to all matters about which he was examined upon direct examination. A defendant's failure or neglect to be a witness or to testify upon any particular point, or any matter connected with the case, should not in any manner prejudice him nor be used against him on the trial, or be

considered by you in determining his guilt or innocence. [213]

The Court further instructs you, that while you are the sole judges of the facts and the credibility of witnesses, it is the province of the Court to submit to you the law of the case, and, that it is your duty to accept and apply the law as given to you by the Court, whatever your individual ideas may be upon the subjects involved. [214]

The Court further instructs you that the finding of an indictment raises no presumption whatever of a defendant's guilt, but the burden of proof is on the Government, and that the law presumes the defendant innocent until proven guilty beyond a reasonable doubt, and, that this rule applies to every material element of the offense charged. The Court further instructs you that a reasonable doubt is one which is reasonable in view of all the evidence, and if, after an impartial comparison and consideration of all the evidence, you can candidly say that you are not satisfied of the defendant's guilt, you have a reasonable doubt; but if, after such impartial comparison and consideration of all the evidence, you can truthfully say that you have an abiding conviction of the defendant's guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt. [215]

[Order Settling and Allowing Bill of Exceptions.]

It is hereby stipulated that the foregoing may constitute a bill of exceptions of the above-entitled cause

and that the same may be settled by the judge who tried the same.

Dated this 8th day of October, 1914.

ALBERT SCHOONOVER,

United States Attorney.

DUKE STONE,

Assistant United States Attorney.

ROBT. O'CONNOR,

Assistant United States Attorney, Attorneys for
Plaintiff.

MOTT and DILLON and

ISIDORE B. DOCKWEILER,

Attorneys for Defendants and Appellants.

[Stipulation Re Bill of Exceptions, etc.]

The foregoing Bill of Exceptions, containing all of the evidence offered and introduced at the trial of said cause, necessary to a review of said cause on this appeal, and the instructions of the Court to the jury, with the defendants' exceptions thereto, and containing all of the proceedings at the trial of said cause, to and including the verdict of the jury, is a true and correct Bill of Exceptions, and is hereby settled and allowed, and ordered to be filed.

Dated this 8th day of October, 1914.

OLIN WELLBORN,

Judge.

[Endorsed] Crim. #575. In the United States District Court Within and for the Southern District of California, Southern Division. United States of America Plaintiff, vs. Sam Yick [216] and Jung Kim, *alias* Jang Chung, Defendants. No. 575 Crimi-

nal. Bill of Exceptions on Behalf of Defendants Sam Yick and Jung Kim. Filed Oct, 8, 1914, at 35 min. past 10 o'clock A. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. Mott & Dillon, 1126 Merchants National Bank Bldg., Los Angeles, California. [217]

United States District Court in and for the Southern District of California, Southern Division.

#575—Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAM YICK, JUNG KIM, *alias* JANG CHUNG,

Defendants.

Petition for Writ of Error.

Your petitioners Sam Yick and Jung Kim, *alias* Jang Chung, defendants in the above-entitled cause, bring this petition for a writ of error to the District Court of the United States, in and for the Southern District of California, Southern Division, and in that behalf your petitioners say:

That on the 4th day of May, 1914, there was made, given, rendered and entered in the above-entitled court and cause judgment against your petitioner wherein and whereby your petitioner, Sam Yick, was sentenced to be imprisoned for twelve months in the County Jail of the County of Kern, and your petitioner Jung Kim, *alias* Jang Chung, was sentenced to imprisonment for six months in the County jail of the County of Kern; and your petitioners say

that they are and each of them is advised by counsel, and they and each of them avers that there was and is manifest error in the records and proceedings had in such cause and in the making, giving, rendition and entry of such judgment and sentence, to the great injury and damage of your petitioners, all of which errors will be more fully made to appear by an examination of the said record, and by an examination of the bill of exceptions by your petitioners to be tendered and filed, and in the assignment of errors hereinafter [218] set out, and to that end thereafter that the said judgment, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals, Ninth Circuit, your petitioners now pray that a writ of error may be issued directed therefrom to the said District Court of the United States for the Southern District of California, Southern Division, returnable according to law and the practice of the Court, and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors and all proceedings had in said cause that the same may be removed into the United States Circuit Court of Appeals for the Ninth Circuit to the end that the error, if any has happened, may be duly corrected and full and speedy justice done your petitioners.

And your petitioners now make the assignment of errors filed herewith upon which they will rely and which will be made to appear by return of said record in obedience to said writ.

WHEREFORE your petitioners pray the issuance of the writ as herein prayed, and pray that the as-

signment of errors filed herewith may be considered as their assignment of errors upon the writ, and that the judgment rendered in this cause may be reversed and held for naught and that said cause be remanded for further proceedings and that they be awarded a supersedeas upon said judgment, and all necessary processes, including bail.

MOTT AND DILLON and

ISIDORE B. DOCKWEILER,

Attorneys for Defendants Sam Yick and Jung Kim,
alias Jang Chung.

SAM YICK.

JUNG Kim. [219]

[Endorsed]: No. 575—Crim. United States District Court in and for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. Sam Yick, Jung Kim, *alias* Jang Chung, Defendants. Petition for Writ of Error. Filed May 6, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Mott & Dillon, 426 Douglas Bldg., Los Angeles, Cal., Attorneys for Defendants. [220]

*In the United States District Court in and for the
Southern District of California, Southern Division.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAM YICK, JUNG KIM, *alias* JANG CHUNG,
Defendants.

Assignment of Errors.

Sam Yick and Jung Kim, *alias* Jang Chung, defendants in the above-entitled cause, and plaintiffs in error herein having petitioned for an order from said Court permitting them to procure a writ of error from this Court directed to the United States Circuit Court of Appeals, Ninth Circuit, from the judgment and sentence made and entered in said cause against said plaintiffs in error, and petitioners herein, now make and file with their said petition the following assignment of errors herein, which they aver occurred on the trial of said cause, and upon which they will rely for a reversal of said judgment and sentence upon the said writ, and which said errors and each and every one of them are to the great detriment, injury and prejudice of the said defendants and in violation of the rights conferred upon them by law; and they say that in the record and proceedings in the above-entitled cause upon the hearing and determination thereof in the District Court of the United States for the Southern District of California, Southern Division, there is manifest error in this, to wit:

1. The Court erred in refusing to compel the United States District Attorney and the Immigration officials and each [221] of them to surrender and to deliver up to the defendant Sam Yick upon his demand therefor those certain letters and papers secured and obtained from the trustee in bankruptcy in the matter of the Sam Yick Company Bankruptcy, and which letters and papers were subsequent to such

demand and against the defendants' objections introduced in evidence by plaintiffs and are marked respectively as United States Exhibits 12-A, 12-B, 12-C, 12-D, 12-E, 12-F, 12-G, 12-H, 12-I, 12-J, 12-K, 12-L, 12-M, and 8, and to which action of the Court the defendants and each of them duly excepted.

2. That the Court erred in admitting in evidence against defendants' objections plaintiffs' exhibits marked respectively United States Exhibits 12-A, 12-B, 12-C, 12-D, 12-E, 12-F, 12-G, 12-H, 12-I, 12-J, 12-K, 12-L, 12-M, and 8, and each of them, and to which action of the Court the defendants duly excepted.

3. The Court erred in charging the jury as follows:

The Court further instructs you that the fact if it be a fact that Government officers incited or aided defendants to commit the crime charged against them, if they did commit it, is no bar to a prosecution by the Government. The Court further instructs you that persons engaged in a criminal conspiracy such as here charged may be held guilty of the crime even though they were incited to it by Government officers or were acting in the belief that Government officers or agents were co-operating with them, and notwithstanding the parties so engaged were depending upon such officers to protect them from arrest and to aid in carrying out the objects of a conspiracy.

If, therefore, you find from the evidence beyond a reasonable doubt that there was a conspiracy be-

tween the defendants as alleged in the indictment, and that the defendant Jung Kim committed either of the overt acts therein charged [222] it will be your duty to find the defendants guilty, and notwithstanding officers of the Government participating, if they did participate in any of the acts committed by the defendants or either of them.

To which charge as given by the Court the defendants duly excepted.

4. The Court erred in refusing to instruct the jury, as requested by defendants, as follows, to wit:

The jury is instructed that if you find from the evidence that Inspector A. P. Morse and Inspector A. G. Bernard were accomplices or co-conspirators with the defendants in this case, their testimony ought to be viewed with distrust, and their evidence as to the oral admissions of the defendants in this case ought to be viewed with caution, and you are further instructed that if you find from the evidence that Inspector A. P. Morse and Inspector A. G. Bernard were accomplices or co-conspirators with said defendants, a conviction cannot be had on their testimony alone, unless they are corroborated by other evidence, which in itself and without the aid of their evidence tends to connect the defendants with the commission of the offenses charged in the instrument; and the corroboration is not sufficient for a conviction if it merely shows the commission of the offense or the circumstances thereof. To which refusal of the Court said defendants and each of them, duly excepted. [223]

5. The Court erred in refusing to instruct the

Jury as requested by the defendants as follows, to wit:

The jury is instructed that an accomplice is a person who knowingly, voluntarily, and with common intent with the principal offender, voluntarily unites and actually co-operates with him in the commission of a crime. Where the evidence is conflicting as to whether the co-operation is voluntary and real, it is for the jury to determine whether such witness is an accomplice. If you find from the evidence that the witnesses, Inspector Morse and Inspector Bernard, or either of them, were accomplices with the defendants, or either of them, then I instruct you that the testimony of such of them as you may find to be an accomplice ought to be viewed with distrust and caution, and should not be believed by you, unless corroborated by independent testimony tending to connect the defendants with the offense charged in the indictment. A conviction cannot be had upon the testimony of an accomplice alone. He must be corroborated by such other independent evidence as shall tend to connect the accused with the commission of the offense. This corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof, nor can the statement of one accomplice be regarded as sufficient corroboration of the statement of another accomplice. The corroboration which merely raises a suspicion of guilt because the accused had an opportunity to commit the offense is not sufficient. It is for the jury to determine whether the testimony of such witness or witnesses

as you may find to be accomplices in this case has been so corroborated as to establish the guilt of the accused beyond a reasonable doubt, and if you find that the testimony of such witness or witnesses as you may find to be accomplices has not been so corroborated, as to either of the defendants, then as to such defendant your [224] verdict should be not guilty, to which refusal of the Court said defendants and each of them duly excepted.

6. That the Court erred in overruling and denying defendants motion for a new trial.

7. That the Court erred in making, giving and rendering judgment against the defendants on the indictment herein for the reason that the verdict of the jury was against the law in that the evidence showed that the crime alleged to have been committed by the defendants was instigated, procured and induced by officers and employees of the United States Government, and was not planned or committed by said defendants other than through said instigation, plan and procurement of said officers and the government.

8. The Court erred in pronouncing sentence against the defendants.

MOTT and DILLON and

ISIDORE B. DOCKWEILER,

Attorneys for Sam Yick and Jung Kim, *alias* Jang Chung, Plaintiffs in Error.

United States of America,
Southern District of California,
Southern Division,—ss.

We hereby certify that the foregoing assignment

of errors are made on behalf of the petitioners for a writ of error herein, and are in our opinion well taken, and the same now constitute the assignment of errors upon the writ prayed for.

MOTT & DILLON and,

ISIDORE B. DOCKWEILER,

Attorneys for Plaintiffs in Error. [225]

[Endorsed]: No. 575—Crim. United States District Court in and for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. Sam Yick, Jung Kim, *alias* Jang Chung, Defendants. Assignment of Errors. Filed May 6, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Mott & Dillon, 426 Douglas Bldg., Los Angeles, California, Attorneys for Defendants. [226]

In the United States District Court, in and for the Southern District of California, Southern Division.

No. 575—Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAM YICK, JUNG KIM, *alias* JUNG CHUNG,
Defendants.

**Order Allowing Writ of Error and Admitting
Defendants to Bail.**

On this 7th day of May, 1914, came the defendants Sam Yick and Jung Kim, *alias* Jung Chung, by their attorneys, John G. Mott and Isidore B.

Dockweiler, and presented to the Court their petition heretofore filed herein, praying for the allowance of a Writ of Error, and Assignment of Errors, intended to be urged by them, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court for the Ninth Judicial Circuit, and that such other and further proceedings may be had as may be proper in the premises;

On consideration whereof, IT IS ORDERED that said petition be, and the same is hereby allowed and granted, and that a Writ of Error be, and the same is hereby allowed in said cause, and returnable before the said United States Circuit Court of Appeals for the Ninth Judicial Circuit, on the 5th day of June, A. D. 1914, and that a transcript of the record and of all the proceedings and papers on which the judgment was made and entered in this cause shall be made and transmitted to the United States Circuit Court of Appeals for the Ninth [227] Judicial Circuit, and said writ shall operate as a supersedeas and stay of execution.

And it appearing that the United States attorney has no objection, IT IS FURTHER ORDERED that the defendant, Sam Yick, be admitted to bail pending said Writ of Error, in the sum of Six Thousand (\$6,000.00) Dollars, conditioned as the law directs, and that the defendant, Jung Kim, be admitted to bail pending said Writ of Error, in the sum of Five Thousand (\$5,000.00) Dollars, conditioned as the law directs; and

IT IS HEREBY FURTHER ORDERED that each of the undertakings, now tendered by each of said defendants, be, and the same are, and each of them is, hereby approved as the undertakings on Writ of Error herein, and also as such bail bonds.

Done this 8th day of May, 1914.

OLIN WELLBORN,
District Judge.

[Endorsed]: No. 575—Criminal. Dept. In the United States District Court for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. Sam Yick, Jung Kim, *alias* Jung Chung, Defendants. Order Allowing Writ of Error and Admitting Defendants to Bail. Filed May 8, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Isidore B. Dockweiler. Suite 536 Douglas Bldg. Office Tel. Main 8756, Home 1320, Los Angeles, Cal., Attorney for Defendants. [228]

*In the United States District Court in and for the
Southern District of California, Southern Division.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAM YICK, JUNG KIM, *alias* JANG CHUNG,
Defendants.

Supersedeas Bond.

KNOW ALL MEN BY THESE PRESENTS:
That we, Sam Yick of Bakersfield, Kern County,

California, as principal, and C. H. Quincy, of Los Angeles, California, and W. E. Deacon, of Los Angeles, California, and Ella F. Filben, of Los Angeles, California, as sureties, are held and firmly bound to the United States of America in the full sum of \$6,000.00, lawful money of the United States, to be paid to the United States, and the further sum of \$300.00, lawful money of the United States, to be paid to the United States, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

Sealed with our seals and dated this 6th day of May, 1914.

WHEREAS, lately at the term of the District Court of the United States for the Southern District of California, Southern Division, in the suit pending in the said Court between the United States of America, plaintiff, and Sam Yick, defendant, judgment and sentence was given, made and rendered [229] and entered against the said Sam Yick, defendant, and the said Sam Yick is about to apply for a writ of error from United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence and a citation directed to the United States of America to be and appear in the said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to terms and at or within the time to be fixed in said citation which said citation shall be duly issued and served within the time provided by law; now, the condition of the above application is such that if upon

the issuance of such writ and the service of such citation, as aforesaid, the said Sam Yick shall appear in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in the said Court and prosecute his writ of error, and if the said Sam Yick shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of such judgment and sentence as said Court may direct, if the judgment and sentence against him shall be affirmed; and if he shall appear for trial in the District Court of United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said Court provided judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then this obligation to be void; otherwise to remain in full force, virtue and effect.

SAM YICK,

Principal.

C. H. QUINCY,

W. E. DEACON,

ELLA F. FILBEN,

Sureties. [230]

Southern District of California,—ss.

C. H. Quincy and W. E. Deacon, being duly sworn, each for himself deposes and says: That he is a householder in said District and is worth the sum of

\$6,300.00, exclusive of property exempt from execution and over and above all debts and liabilities.

[Seal]

C. H. QUINCY.

W. E. DEACON.

Subscribed and sworn to before me this 6th day of May, 1914.

CHAS. N. WILLIAMS,
United States Commissioner.

Southern District of California,—ss.

Ella F. Filben, being duly sworn, deposes and says: That she is a householder in said District and is worth the sum of \$6,300.00, exclusive of property exempt from execution and over and above all debts and liabilities.

[Seal]

ELLA F. FILBEN.

Subscribed and sworn to before me this 6th day of May, 1914.

CHAS. N. WILLIAMS,
United States Commissioner.

The foregoing bond and sufficiency of the sureties thereto is hereby approved.

Dated May 8th, 1914.

OLIN WELLBORN.

[Endorsed]: No. 575—Crim. United States District Court in and for the Southern District of California, Southern Division. [231] United States of America, Plaintiff, vs. Sam Yick, Jung Kim, *alias* Jang Chung, Defendants. Supersedeas Bond. Filed May 8, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Mott & Dillon, 426 Douglas Bldg., Los Angeles, California, Attorneys for Defendants. [232]

*In the United States District Court in and for the
Southern District of California, Southern Division.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAM YICK, JUNG KIM, *alias* JANG CHUNG,

Defendants.

Supersedeas Bond.

KNOW ALL MEN BY THESE PRESENTS:
That we, Jung Kim, *alias* Jang Chung, of Bakersfield, Kern County, California, as principal, and C. H. Quincy, of Los Angeles, California, and W. E. Deacon, of Los Angeles, California, and Ella F. Filben, of Los Angeles, California, as sureties, are held and firmly bound to the United States of America in the full sum of \$5,000.00, lawful money of the United States, to be paid to the United States, and the further sum of \$300.00, lawful money of the United States, to be paid to the United States, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

Sealed with our seals and dated this 6th day of May, 1914.

WHEREAS, lately at the term of the District Court of the United States for the Southern District of California, Southern Division, in the suit pending in the said Court between the United States of Amer-

ica, plaintiff, and Jung Kim, [233] defendant, judgment and sentence was given, made and rendered and entered against the said Jung Kim, *alias* Jang Chung, defendant, and the said Jung Kim is about to apply for a writ of error from United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence and a citation directed to the United States of America to be and appear in the said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to terms and at or within the time to be fixed in said citation, which said citation shall be duly issued and served within the time provided by law; now, the condition of the above application is such that if upon the issuance of such writ and the service of such citation, as aforesaid, the said Jung Kim shall appear in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in the said Court and prosecute his writ of error, and if the said Jung Kim shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause and shall surrender himself in execution of such judgment and sentence as said Court may direct, if the judgment and sentence against him shall be affirmed; and if he shall appear for trial in the District Court of United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
SAM YICK et al.,
Defendants.

On motion of Geoffrey C. O'Connell, Esq., of counsel for defendants, it is ordered that defendants be, and they hereby are granted thirty (30) days' additional time, after May 1st, 1914, within which to prepare, serve and file their proposed bill of exceptions herein. [236]

[Order Extending Time Thirty Days After June 1, 1914, to Prepare, etc., Bill of Exceptions.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Friday, the twenty-ninth day of May, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
SAM YICK et al.,
Defendants.

On motion of Geoffrey C. O'Connell, Esq., of counsel for defendants, it is ordered that defendants be, and hereby are granted an additional thirty (30) days from and after June 1st, 1914, within which to prepare, serve and file their proposed bill of exceptions herein. [237]

[Order Extending Time to and Including August 1, 1914, to Prepare etc. Bill of Exceptions.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Monday, the twenty-ninth day of June, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 575—CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SAM YICK, et al.,

Defendants.

On motion of Geoffrey C. O'Connell, Esq., of counsel for defendants, and with the consent of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, it is ordered that defendants be, and hereby are granted to and including August 1st, 1914, within which to prepare, serve and file proposed bill of exceptions herein. [238]

Southern District of California, do hereby certify the foregoing two hundred and forty (240) typewritten pages, numbered from one (1) to two hundred and forty (240) inclusive, and comprised in one (1) volume, to be a full, true and correct copy of the Indictment, Arraignment and Pleas of Defendants, Minutes of Trial, Verdict of the Jury, Motion for a New Trial, Order Denying Motion for a New Trial, and the Judgment of the Court, Clerk's Certificate to Judgment-roll, Bill of Exceptions, Petition for Writ of Error, on behalf of both defendants, Assignment of Errors, Order Allowing Writ of Error and Supersedeas, Supersedeas Bond of Defendant Sam Yick, Supersedeas Bond of Defendant Jung Kim, Orders Extending Time to File Bill of Exceptions, and Praecipe for Record on Writ of Error, in the above and therein entitled cause, and that the same together constitute the record in said cause as specified in the said Praecipe filed in my office on behalf of the plaintiffs in error by its attorneys of record.

I do further certify that the cost of the foregoing [241] record is \$130.25, the amount whereof has been paid me by Sam Yick and Jung Kim, *alias* Jung Chung, the plaintiffs in error in said cause.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this 18th day of December, in the year of our Lord one thousand nine hundred and fourteen, and of our

Independence, the one hundred and thirty-ninth.

[Seal]

WM. M. VAN DYKE,

Clerk of the District Court of the United States of
America, in and for the Southern District of
California.

[Ten Cents Internal Revenue Stamp. Canceled
Dec. 18, 1914. Wm. M. Van Dyke.] [242]

[Endorsed]: No. 2542. United States Circuit
Court of Appeals for the Ninth Circuit. Sam Yick
and Jung Kim, *alias* Jung Chung, Plaintiffs in
Error, vs. United States of America, Defendant in
Error. Transcript of Record. Upon Writ of
Error to the United States District Court of the
Southern District of California, Southern Division.

Received December 19, 1914.

F. D. MONCKTON,

Clerk.

Filed January 2, 1915.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.

**[Order Extending Time to August 1, 1914, to File
Record etc., in Appellate Court.]**

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

SAM YICK and JUNG KIM, *alias* JUNG
CHUNG,

Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby enlarged and extended to and including the 1st day of August, 1914.

Los Angeles, May 27th, 1914.

OLIN WELLBORN,
United States District Judge, Southern District of
California.

[Endorsed]: No. ——. United States Circuit Court of Appeals for the Ninth Circuit. Sam Yick and Jung Kim, *alias* Jung Chung, Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Enlarging Time to File Record, etc. Filed Jun. 2, 1914. F. D. Monckton, Clerk.

**[Order Extending Time to October 1, 1914, to File
Record etc., in Appellate Court.]**

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

SAM YICK and JUNG KIM, *alias* JUNG
CHUNG,

Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby enlarged and extended to and including the 1st day of October, 1914.

Los Angeles, July 28th, 1914.

OLIN WELLBORN,

United States District Judge for the Southern District of California.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. Sam Yick and Jung Kim, *alias* Jung Chung, Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Enlarging Time to Docket Cause and File Record. Filed Jul. 30, 1914. F. D. Monckton, Clerk.

**[Order Extending Time to December 1, 1914, to File
Record etc., in Appellate Court.]**

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

SAM YICK and JUNG KIM, *alias* JUNG
CHUNG,

Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby enlarged and extended to and including the 1st day of December, 1914.

Dated at Los Angeles, September 28th, 1914.

OLIN WELLBORN,

United States District Judge, Southern District of
California.

[Endorsed]: No. ——. United States Circuit Court of Appeals for the Ninth Circuit. Sam Yick and Jung Kim, *alias* Jung Chung, Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Enlarging Time to Docket Cause and File Record. Filed Sep. 30, 1914. F. D. Monckton, Clerk.

**[Order Extending Time to January 1, 1914, to File
Record etc., in Appellate Court.]**

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

SAM YICK and JUNG KIM, *alias* JUNG
CHUNG,

Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby enlarged and extended to and including the 1st day of January, 1915.

Dated at Los Angeles, November 30th, 1914.

OLIN WELLBORN,

United States District Judge, for the Southern District of California.

[Endorsed]: No. 2542. United States Circuit Court of Appeals for the Ninth Circuit. Four Orders Under Rule 16 Enlarging Time to Jan. 1, 1915, to File Record Thereof and to Docket Case. Refiled Jan. 2, 1915. F. D. Monckton, Clerk.

